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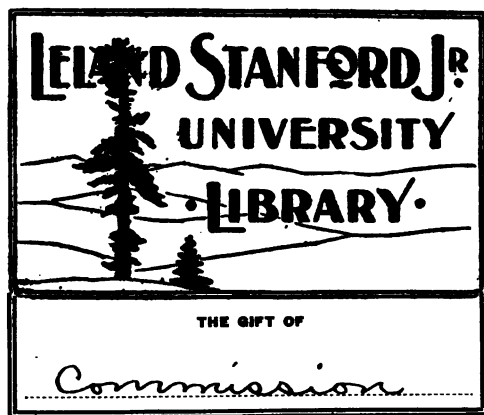
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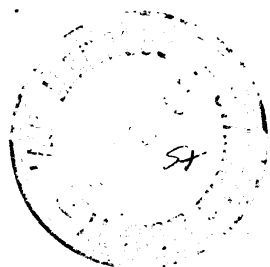
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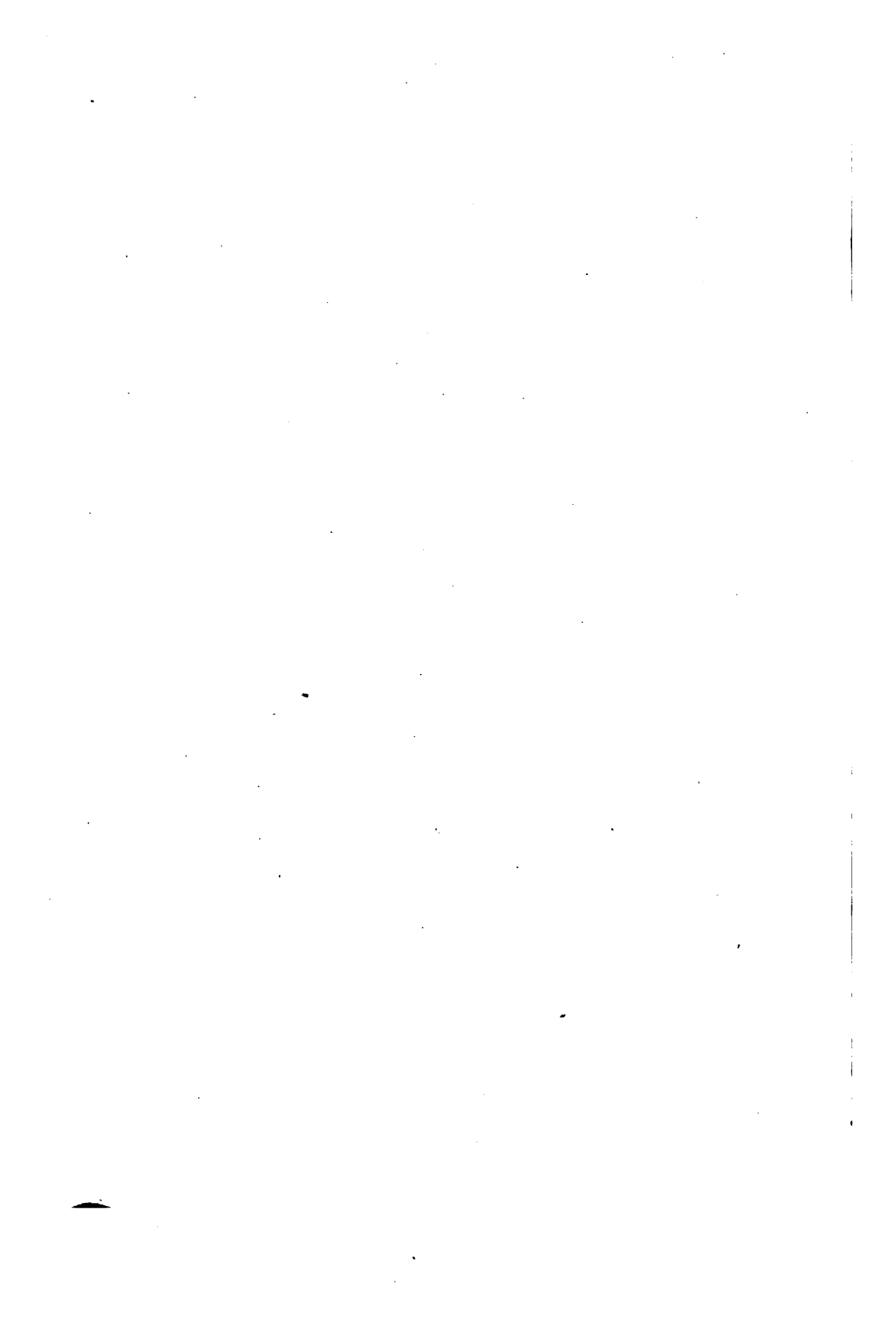
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II 2.









STATE OF INDIANA

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SECOND ANNUAL REPORT

OF THE

# Railroad Commission

OF INDIANA

1907

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TO THE GOVERNOR

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INDIANAPOLIS:

WM. B. BURFORD, CONTRACTOR FOR STATE PRINTING AND BINDING.

1907.

THE STATE OF INDIANA,  
EXECUTIVE DEPARTMENT,  
January 1, 1908. }

Received by the Governor, examined and referred to the Auditor of State  
for verification of the financial statement.

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OFFICE OF AUDITOR OF STATE,  
INDIANAPOLIS, January 13, 1908. }

The within report, so far as the same relates to moneys drawn from the State  
Treasury, has been examined and found correct.

J. C. BILLHEIMER,  
*Auditor of State.*

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JANUARY 13, 1908.

Returned by the Auditor of State, with above certificate, and transmitted to  
Secretary of State for publication, upon the order of the Board of Commissioners  
of Public Printing and Binding.

FRED L. GEMMER,  
*Secretary to the Governor.*

YBA 0311 0507 1908

Filed in the office of the Secretary of State of the State of Indiana, January  
13, 1908.

FRED A. SIMS,  
*Secretary of State.*

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Received the within report and delivered to the printer January 13, 1908

HARRY SLOUGH,  
*Clerk Printing Bureau.*

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## STATE OF INDIANA.

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### RAILROAD COMMISSIONERS.

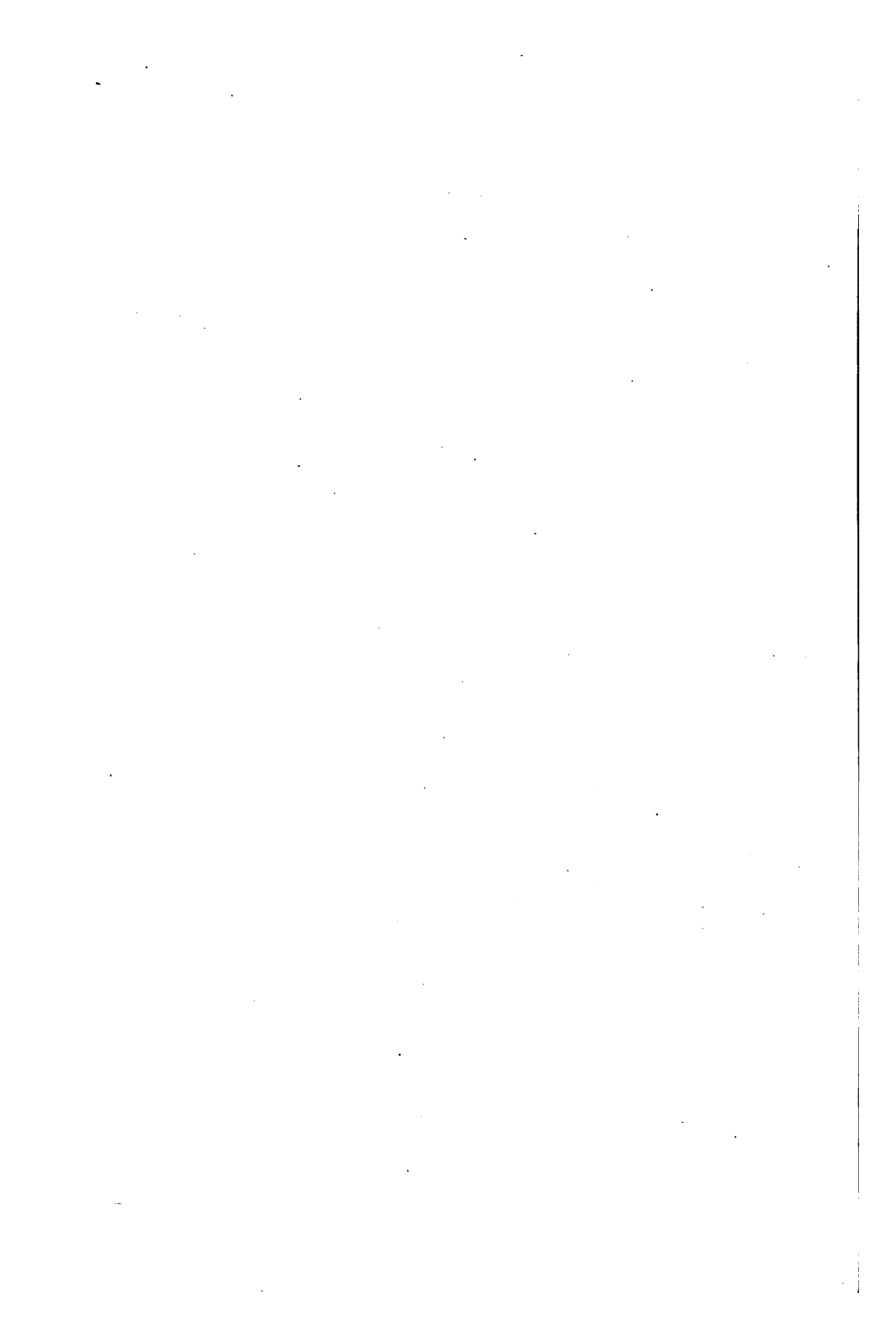
UNION B. HUNT, Chairman, Winchester.....Term expires May 1, 1908  
CHARLES V. McADAMS, Williamsport.....Term expires May 1, 1911  
WILLIAM J. WOOD, Evansville.....Term expires May 1, 1909

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CHARLES B. RILEY, Secretary.  
LEON E. MORTON, Clerk.  
H. O. GARMAN, Purdue University, Consulting Engineer.  
ALEXANDER SHANE, Chief Inspector.  
D. E. MATTHEWS, Inspector.  
CHAS. M. PREBLE, Inspector.

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Office, Room 84 State House.  
Public Hearing Room, 85 State House.  
Chairman's Room, 83 State House.  
Commissioners' Room, 50 State House.



SECOND ANNUAL REPORT  
OF THE  
Railroad Commission of Indiana.

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INDIANAPOLIS, IND., Jan. 1, 1908.

To the HONORABLE J. FRANK HANLY, *Governor of Indiana:*

We respectfully submit the Second Annual Report of the Railroad Commission of Indiana.

The act of 1905 required, chiefly, a report of the proceedings of the Commission. The act of 1907 requires of the Commission to report to the Governor, not only its transactions, but "such statements, facts and explanations as will disclose the actual working of the system of railroad transportation and its bearing upon the business and prosperity of the State." Obviously such a duty points to a comprehensive review of railroad affairs, and the proceedings of the Commission.

The law demands that we shall supervise all freight and passenger tariffs and requires the carriers to file them for that purpose. We are required to keep informed as to the condition of railroads and the manner in which they are operated with reference to the security and accommodation of the public; and we may appoint inspectors and engineers to aid us in discharging these duties. These powers are comprehensive and varied and require the best thought and action of which we are capable and all our time and experience to properly exercise them.

In commenting upon the actual working of railroad transportation with reference to the business and prosperity of the State, our attention is naturally directed to the position of the Railroad Commission and its influence upon transportation conditions within the State. The work performed and the actual results accomplished warrant the conclusion that railroad regulation in Indiana has been successful, and if this can be said concerning less than three years

of the operation of a new bureau of the State, how much more may be affirmed when years of organization and adaptation shall have brought about full recognition of the benefits of the work of the Commission, and brought about, also, the active co-operation of all persons who are concerned in its labors?

### THE PUBLIC.

The public has been benefited in more ways than we shall be able to mention here, chiefly, we shall say, in having a tribunal, with very comprehensive powers, to appeal to; an organized body whose offices are always open, ready to receive and promptly act upon any application within its authority. Overcharges and car shortages, insufficient train facilities and grievances of many kinds have been corrected by the Commission, sometimes by telephone or telegraph, within a few hours after the matter was presented to it. Defects and neglects, that might have caused accidents, have, upon the reports of our inspectors and our recommendations, been promptly taken up and remedied. Depots, stock pens and other structures have been constructed, and depots, closets and trains lighted and heated and made sanitary. Defects in tracks, bridges and other structures have been discovered and corrected, and many obstructions, overhead and lateral, have been discovered and removed.

### THE SHIPPER.

The shipper is perhaps even more interested than the general public. To business men transportation largely involves the element of profit and loss in the conduct of their business. We have a Tariff Department, in charge of the Clerk of the Commission, who is rapidly becoming a proficient traffic man. These files may be consulted and quoted, if necessary, by or to any shipper in the State. But besides this, as these tariffs are filed here they come under our scrutiny. If rates are found out of line, an immediate report is made to the Commission, the matter is called to the attention of the carrier for correction, and the shippers affected, if necessary. Other steps failing, formal proceedings are commenced, to the end that transportation in this State may be upon uniform classifications, and that fair, equal and reasonable rates may prevail. The shipper is greatly interested in the use and distribution of cars, in car service and in demurrage rules. He has sought our aid often along these lines, and when his contention was right he has been

given proper relief. Before the time of railroad regulation in Indiana, car service rules made no exception of weather conditions, but required loading or unloading in forty-eight hours' time; so, also, no exception was made when cars were "bunched" on the shipper in numbers far beyond his capacity to load or unload, and no notice of arrival or placement was required. All these were corrected by our orders, effective the first day of last year, and we are informed, from many quarters, that great good has resulted, while the movement of cars has not been retarded.

### CO-OPERATION AND CONCILIATION.

The best part of our work may turn out to be the restoration of harmony between carriers and shippers. This Commission does not pass an opportunity to bring about adjustments. We have found, to our surprise, that some applications for relief are made to us before the carriers have been approached about them. We have discouraged proceedings of this kind, and if both parties coming before us will yield to the good offices of the Commission, which we shall use to bring about adjustments on fair terms, there will be few public hearings by this body. All this presumes, of course, that the officers of the carriers, especially those with whom we come in contact, will heartily co-operate with us. Most of the railroad attorneys and officials in this State recognize the efforts of this Commission to place upon railroad operation and traffic within the State a fair and just system of regulation. We quote from one of the highest railroad officials, who recently affirmed: "It seems to me that the administrative and legislative bodies representing the people and the railroad managers representing the stockholders should not resort to insane opposition, but to sane co-operation."

### EXPRESS COMPANIES.

Many complaints reached the Commission during the past year with reference to the business of express companies in the State.

The prices charged for express service are based chiefly on the idea that parcels are taken up and delivered. So poorly was this service performed that in 1901 the General Assembly passed an act providing "That all express companies doing business within the State of Indiana shall deliver all express matter to all persons to whom the same is directed within the corporation limits of cities within the State having a population of twenty-five hundred, or more, inhabitants." It will be observed that this act did not re-

quire these companies to take up parcels, but only to deliver them, and although only this much was required the act was practically ignored, the contention being made that it did not require free delivery. The express companies paid no attention to the fact that the act was passed with reference to a condition then existing, namely, that the companies based their charges on taking up and delivering, and that this was the prevailing custom of their business, and that they provided wagons and men for this purpose, but that instead of delivering generally, even in the larger cities of the State, they delivered or not, as they pleased, in the towns, and in the larger cities fixed arbitrary lines for delivery within the corporate limits. The Commission, under its obligation to enforce the law, commenced probably one hundred suits for penalties against these companies. These cases have not been finally decided, but meanwhile the practices referred to continue, and other complaints having been made to the Commission, in July, 1907, we instituted a general inquiry into the rates and practices of these companies. This matter was so important that we have conducted a patient and thorough investigation. The report of the case comprises 1,300 pages of testimony and tabulations. Briefs are required to be filed within the next two weeks, and our conclusions will be announced at an early date.

#### RATE INVESTIGATIONS.

The last Assembly so amended the law that the Commission may initiate rate hearings, as indicated in section seven of the amended act published in this report. The wisdom of this legislation has been demonstrated. Acting under this authority, the Commission has power to institute and conduct upon its own motion a general inquiry upon the subject of rates throughout the State, or any portion thereof. The Commission has instituted four such general inquiries:

1. Concerning rates on and classifications of logs and matters connected therewith.
2. Concerning rates on road and street materials.
3. Concerning rates on classified freight out of and into Indianapolis.
4. Concerning rates, practices and discriminations of express companies.
5. Concerning alleged discrimination in coal rates.

The first two and last of these proceedings have been determined, as shown elsewhere in this report. The other two are yet



pending and will soon be concluded and determined. The operation of this amendment, together with the repeal of the provision providing for an appeal to the Appellate Court from the action of the Commission, has greatly enlarged the powers and increased the liberty of action by the Commission, and we anticipate the final results will fully justify these changes in the law.

### ACCIDENTS AND ACCIDENT REPORTS.

Reports of railroad accidents in this State have been generally filed by the railroad companies since the 1st day of July last. The time within which these reports have been filed is too short to enable us to make any extended comment upon these accidents. We refer, however, to our accident bulletins, Nos. 1 and 2, contained in Appendix IV of this report, from which it will be noted that generally accidents are not decreasing in the State. This fact is also shown in the general reports of the railroad companies filed with us for the year ending June 30, 1906, and for the year ending June 30, 1907. For the first period there were 342 fatal accidents and 4,313 persons injured on the railroads within the State, and for the second period, ending June 30, 1907, there were 413 killed and 4,657 injured, the difference being 71 more killed and 344 more injured for the year ending June 30, 1907, than for the year ending June 30, 1906.

We understand that there are 11,729 highway and street crossings of railroads at grade in this State. We know that when the railroads were built across these highways the speed of the trains was about half what it is now. We understand, also, that interurban railroads have been constructed in this State side by side with steam railroads, and that instead of one crossing of the highway over one railroad there are now, in many cases, two crossings, both dangerous on account of the high speed of the trains and cars that are operated on the railways. We know, also, that at many of these crossings there are no sign boards to indicate the fact of danger. Indeed, there is no law in this State which requires the railroad companies to put up such boards at these crossings. A year from now we will have all of this information in much better shape. During this year, under an act passed on the recommendation of the Commission, by the last General Assembly, a convention of railroad men will take place in the rooms of the Commission, to discuss, under its direction, railroad accidents and such means as may be adopted to prevent them. What we desire to point out

here is that the Commission has taken active steps with reference to railroad accidents and looking to their prevention. That we shall keep informed of every railroad accident, of any seriousness, in which any person shall lose his life or be injured. That if the accident involves serious loss of life our inspectors will be sent, or we will go ourselves, to the place where it happened and make an investigation. That we will bring before us, in all serious accidents, the men who were operating the trains at the time the accident took place, and the officers in charge of them, and that as soon as we have this matter in the shape we intend to put it, well organized and working quickly and practically, we expect to know and to understand a great deal more about the causes of such accidents in the State and what steps are necessary for their prevention than we do now. Our next report will contain the results of our investigations during this year, and comparisons and facts that we are not now able to give.

### REPORTS OF RAILROADS.

The reports filed by the carriers show that they have had a prosperous year. The reports are not so made that the business of the carrier in this State can be successfully separated from the entire business of the carriers which operate in two or more states. The belief is entertained that a system of accounting will shortly be inaugurated by which it will be possible to separate earnings and revenues of interstate carriers by state lines. However, the reports as now filed present many matters worthy of brief notice as follows:

**Mileage Steam Lines.**—It appears that during the year ending June 30th last there had been 222.53 miles of main line, second, third and fourth track built, and 193.45 miles of yard tracks and sidings.

**Mileage of Interurbans.**—We present for the first time (Appendix III, Table 1A) an account of interurban mileage in the State in operation on this date. This being the first report, it is defective in some particulars, and we are not able to make comparisons with former years. These lines are building very rapidly throughout the State, there now being several lines in process of construction which are not included in this report.

**Income From Operation.**—The reports show that there was an increase on account of freight revenues of \$39,565,997 over the preceding year, and an increase of receipts on account of passenger revenues of \$12,889,035, and a decrease of other revenues from

operation in the sum of \$6,792,998, making a total net increase in revenues from operation in the sum of \$45,663,034. The expenses of maintenance of way and structures, maintenance of equipment and conducting transportation for this same period show an increase of \$40,001,093, making a net gain in operating revenue over gain in operating expenses of \$5,661,941. We regret our inability to show, in this connection, a comparison of results, under the reduced passenger fare adopted by the legislature, and the former charges imposed. We cannot do this for the reasons that less than two months' time under the new rates are covered by these reports, and for the reason that the fares for interstate travel are yet generally upon the former basis and the accounts for all service are rendered in the aggregate, so that we can make no comparison, except the above statement of an increase in passenger revenues, but from what source we are unable to intelligently determine.

**Freight Tonnage.**—The reports show that the freight tonnage for the year was 41,835,157 tons in excess of last year, and that the ton miles were 6,037,350,732 in excess of the preceding year.

**Passengers Carried.**—The reports show that there was an increase of 12,891,196 in the number of passengers carried for the year and an increase in passenger mileage of 623,897,830 miles.

**Employes and Wages.**—The reports show that the total number of persons employed by the steam lines for the year, within the State of Indiana, was 60,972, an increase of 6,589 over the preceding year. The total wages paid was \$38,568,263, being an increase of \$4,764,693 over the preceding year. The highest average daily wages paid by any company were paid by the Wabash, Chicago, Lake Shore & Eastern, and the Pennsylvania Company. The lowest wages were paid by the E. & I.

**Accidents in Indiana.**—In addition to our special reports of accidents treated specially at another place in this report, we have the carriers' reports as to a year's accidents within the State. From these reports it appears that during the year six more trainmen were killed and 173 more trainmen injured than during the preceding year. That 28 more other employes were killed and 100 more other employes injured than during the preceding year. That 52 more passengers were killed and 144 more passengers injured than during the preceding year. This unusual increase was caused by the three horrible accidents occurring in December last at Woodville, on the B. & O., and at Fowler and Sandford, on the Big Four. This report shows that while there was an increase of 5 in the number of postal, express, baggage and Pullman employes killed, there

was a decrease of 7 in the number of such employes injured. There was also a decrease of 27 in the killed and 36 in the injured of trespassers on the carriers' grounds and property, and an increase of 7 in the killed and a decrease of 30 in the injured, who were not employes, passengers or trespassers and presumably travelers upon public highways.

**Highway and Street Crossings.**—We also submit a statement of the number of grade, street and highway crossings of steam and interurban railroads. From this data, which is not complete, it appears that there are 11,729 street and highway crossings at grade in this State, and that only 1,194 of these crossings are protected by gates, bells or watchmen. Each of these crossings are points of danger, and it is shown in the tables submitted that during the last year 47 persons were killed and 135 injured at these crossings on the steam lines alone. The number of these crossings unprotected is a surprise to the Commission, as it no doubt will be to yourself and the public, and just what should be done for the protection of the public in reference to them is a fruitful field for executive and legislation and action.

**Block System.**—The last Assembly, by law, required all steam lines operating in the State, which have an income of \$7,500 or more per mile of line, to adopt and use some approved block system by July 1, 1909. For our information and that of the public we have acquired knowledge of the conditions throughout the State with reference to this question, and the result is submitted herewith. From this it appears that there are 5,313.24 miles of line in this State subject to the act referred to, and that of this mileage only 1,890.67 miles are now protected as required by the act, leaving 3,422.57 miles to be so protected by July 1, 1909, unless relieved of that duty by the Commission, as provided in the act.

## DEPOTS.

The Railroad Commission Act of 1907 provides that when the Commission secures reliable information, or complaints shall have been made, or because of report made by inspectors, or if it shall have reason to believe that any carrier in this State does not keep its road or equipment in proper condition or repair for the security of its employes, or the public, or that any carrier, as now required by law, does not maintain adequate and suitable passenger depot or platform facilities; said depots, with passageway to the adjacent street, to be well lighted, to be kept well heated and in an approved

sanitary condition, supplied with wholesome water, closets for men and women, etc. \* \* \* it shall be the duty of the Commission to investigate such defects and recommend to the manager or superintendent of the railroad company such improvements as it deems necessary, and if the recommendations of the Commission are not carried out within the time specified, then the Commission, if it deems best so to do, may file a bill in equity in some circuit or superior court of the State having jurisdiction to require compliance with the order.

The weakness of this statute lies in the words, "as now required by law," which should be eliminated from the statute.

Many cases of failure to provide lights, water and sanitary closets have been called to the attention of the Commission by its inspectors; these matters have been taken up promptly with the railroad authorities, and in a large per cent. of the cases the requirements of the Commission have been complied with. In a number of instances applications have been made for additional depot facilities. In many cases of this kind a request on the part of the Commission has been sufficient to bring the required results, but in some cases formal proceedings were necessary, and where the Commission thought conditions justified it, they ordered the construction of depots. They have also secured, in the various communities, additional facilities for shipping live stock.

#### PHYSICAL CONNECTION AND INTERCHANGE OF TRAFFIC.

The General Assembly of 1907 made it the duty of all carriers in Indiana to afford all reasonable and proper facilities for interchange of traffic at junction points and for the receiving, forwarding and delivering of passengers and property, and to transfer, deliver and accept without delay or discrimination, and promptly forward, all freight or cars, loaded or empty, and destined to any point on its lines or any connecting line. It also made it the duty of the railroads to establish proper physical connections at junction points for the interchange of such traffic, unless relieved from so doing by the Railroad Commission.

A number of cases of this kind have come to the attention of the Commission and the two most important are discussed at length in another part of this report, the cases of the Commercial Club of Richmond and the Commercial Club of Marion, Indiana. In these cases the Commission refused to relieve the railroads from their statutory duty, but issued affirmative orders requiring them to per-

form such duty. The Commission believes that, as a general proposition, where two railroads enter the same town or city, and conditions are such that physical connection and interchange of traffic between said roads are at all practicable, such connection and interchange should be required.

#### INTERCHANGE BETWEEN STEAM AND INTERURBAN RAILROADS.

The law provides that in special cases where it is practical and the same may be accomplished without endangering equipment, tracks or appliances of carriers the Commission may require steam and interurban or suburban railroads to interchange cars, carload shipments, less than carload shipment, and passenger traffic, and for that purpose may require construction of physical connections at junction points and the construction of switch and sidetrack connections as provided in the act. But one formal hearing has been held under this provision of the statute. The Farmland Stone Company filed a petition with the Commission, asking that the C., C., C. & St. L. Ry. Co. be required to deliver coal to the Indiana Union Traction Company for delivery to the plant of the stone company at Maxville on the traction company's line, and about three miles from any steam railroad. The Commission, after hearing the case, concluded that it came within the provision of the statute, and an order was issued requiring the C., C., C. & St. L. Ry. Co. to deliver coal to the Indiana Union Traction Company for delivery on the switch of the Farmland Stone Company at Maxville. A suit was brought by the C., C., C. & St. L. Ry. Co. to set aside this order of the Commission and is now pending in the Superior Court of Marion County.

The subject of interchange of traffic between these two classes of carriers is one that seems to have received but little attention from the Railroad Commissions of the country. In many of the states the Commissions do not have jurisdiction over electric railways, and in the states where they have jurisdiction there seems to be no requirement for an interchange of traffic between steam and electric railroads. By direction of the Commission, the secretary corresponded with a number of Commissions on this subject and found that the matter had never been considered by these Commissions. This is an important matter and should have further consideration by the next General Assembly. The question as to whether or not it is practicable for general interchange of business between these two classes of carriers is one which we do not undertake to decide at this time, but we are of the opinion that there

are cases, like the one mentioned above, where it is practicable for these carriers to interchange business, and that in these cases it should be required, and the law should be so amended, if necessary, as to positively require this duty when ordered by the Commission.

### INSPECTION BUREAU.

The first steps looking to the organization of the Bureau of Inspection, under the provision of the Act approved March 8, 1907, were taken on June 1, by the appointment of Alexander Shane, a railroad man of forty years' experience, as Chief Inspector, and Mr. D. E. Matthews, as Inspector. On August 1, the organization of this Bureau was completed by the appointment of Mr. C. M. Preble as Inspector. Both Mr. Matthews and Mr. Preble are experienced trainmen.

The work of the Bureau speaks for itself, as shown in this report. The Commission feels that the legislation creating this department is wise, that the Bureau as organized has done excellent work, and that it is just in the beginning of its usefulness.

The Commission is glad to note from the report of its Bureau of Inspection that the railroads of the State have rendered efficient assistance in matters of this character. They seem to recognize the fact that any system of inspection that tends to improve the physical condition of railroads and the condition of railroad equipment, adds to the safety of travel and inures to the benefit of the carriers as well as the public.

### LITIGATION.

We have to report that the Commission is now involved in rather extensive litigation, growing out of its efforts to enforce the laws of the State and to enforce and defend the orders promulgated by it. We submit a brief statement of these proceedings for your information and consideration:

1. Numerous actions in the Circuit and Superior Courts of Marion County to collect penalties from express companies for alleged discriminations. These actions are in charge of the Attorney-General, with Mr. Merrill Moores as special counsel. These courts have recently sustained demurrers to the complaints, and the causes are now pending upon such rulings, while the Commission considers the effect of other pending litigation on the same subject, and until it determines whether the pleadings shall be amended or whether it shall abide the present rulings.

2. An action against the Monon Railway Company, in the Superior Court of Marion County, to collect penalties for issuing free transportation under the act of 1905, is pending. This cause is in charge of the Attorney-General, and was commenced soon after the Commission was organized, and was fully argued soon thereafter. This court has so far failed to make any ruling in this case.

3. Two appeals from orders made by the Commission in rate cases to the Appellate Court: These cases involve a reduction in rates on fertilizers throughout the State and rates on coal on the Southern Railway from New Albany west. These causes were argued by the Attorney-General, assisted by counsel for the petitioners. The validity of the act of 1905 is involved in these appeals.

4. Numerous actions in the Superior Court of Allen County to recover penalties for alleged discrimination by express companies. In these actions Leonard Bros. have been employed as special counsel, and the same are yet pending.

5. With the advice and consent of the executive, the Commission employed special counsel to assist in state prosecutions against various railroads in the Circuit Court of Tippecanoe County and the Criminal Court of Marion County to determine the validity of the law known as "The Full Crew Law." Hon. Martin Hugg was employed as special counsel. The prosecution in the Criminal Court of Marion County was determined and a fine assessed against the company. The prosecution pending in the Tippecanoe Circuit Court is yet undetermined.

6. The Commission directed the Prosecuting Attorneys of Howard and Marshall counties to institute prosecutions for running crossings without stopping. These prosecutions have been commenced and are now pending. In one case proper affidavits were filed, but no arrest was made. In the other case no prosecution has been commenced, so far as the Commission is advised.

7. The Commission requested the Prosecuting Attorney of Allen County to institute prosecutions for violations by interurban railroads of the two-cent passenger law. No such prosecutions have been instituted, so far as the Commission is advised.

8. An action by the Cincinnati, Richmond & Fort Wayne Railroad Company against the Commission to set aside its order requiring the installation of an interlocking plant at Decatur, Ind. The Commission has defended this action, and that court recently sustained the Commission's demurrer to the complaint, and the cause is now pending on that ruling.

9. An action in the Tippecanoe Superior Court, brought by the



Monon Railway Company against the Commission, to set aside its order fixing a switching rate on gravel in carloads. In this action the Commission, after receiving executive approval, has employed C. E. Thompson as special counsel. The action is still pending.

10. An action in the Jackson Circuit Court, brought by the Southern Indiana Railway Company, to set aside the Commission's order fixing a rate on gravel from Elnora to Odon and Union Switch in carloads, when coming off the E. & I. R. R. This action is in charge of the Attorney-General.

11. An action in the Lawrence Circuit Court, brought by the Commission against the Southern Indiana Railway Company and the B. & O. S. W. Railroad Company, to enjoin further disobedience of its order fixing a rate on coal from mines on the Southern Indiana Railway to Lehman, on the B. & O. S. W. Railroad, via Bedford. A temporary injunction was granted in this cause, answers have been filed and the companies have, subsequent to the institution of the action, filed tariffs complying with the order of the Commission, and the cause is now pending upon the consideration of the character of the final decree which shall be entered in such cause. In this cause C. E. Thompson and Henry P. Pearson were employed as special counsel, with the consent of the executive.

12. An action in the Superior Court of Marion County by the Lake Erie & Western Railroad Company against the Commission, to set aside its order requiring the construction of a switch connection with an industrial track in New Castle, Ind. In this cause the Commission, with the consent of the executive, has employed Forkner & Forkner as special counsel. This action is still pending.

13. An action in the Superior Court of Marion County, brought by the P., C., C. & St. L. Ry. Co. against the Commission, to set aside its order requiring that company and the C., C. & L. Railroad Company to make physical connection and interchange business in the city of Richmond, Ind. In this cause the Commission, with the consent of the executive, employed Shiveley & Shiveley as special counsel. This action is still pending.

14. An action in the Superior Court of Marion County, brought by the C., C., C. & St. L. Ry. Co. against the Commission, to set aside its order requiring that company and the Indiana Union Traction Company to interchange carload freight at Winchester, Ind. In this cause the Commission, with the consent of the executive, employed Marsh & Jaqua as special counsel. This action is still pending.

15. An action brought by the Southern Indiana Railway Com-

pany in the Circuit Court of Vigo County, and another action brought by the United Fourth Vein Coal Company in the Superior Court of Vigo County, Indiana, against the Commission to set aside its order establishing rules for the distribution of coal cars to coal mines on the line of the Southern Indiana Railway. In the Circuit Court cause a temporary injunction was granted by the court upon the Commission's cross-complaint enjoining the railway company from disobeying the order of the Commission. Changes of venue in such causes have been taken to the Vermillion Circuit Court, where the causes are now pending, and where they will be heard on the 16th inst. In these cases the Commission, with the consent of the executive, has employed Robinson & Stilwell as special counsel.

16. The C., H. & D. and C., C. & St. L. Railway Companies finally declined to make physical connection between their lines at Connersville, and the Commission directed the Attorney-General to proceed to enforce compliance with the law and the orders of the Commission. A petition is now pending in the Federal Court, asking for authority to sue the Receiver of the C., H. & D. Prior to the late amendment, the Attorney-General, with the consent of the Commission, employed James W. Noel as special counsel in this proceeding.

In all these cases, with but few exceptions, the validity of the law under which the Commission acts is assailed. The progress of the litigation, with few exceptions, has been extremely slow. The extent of the litigation and the importance of the questions involved require the employment of special counsel, as indicated.

We attach hereto and make a part of this report the following:

- Appendix I.—Formal Proceedings.
- Appendix II.—Informal Proceedings.
- Appendix III.—Reports of Railways.
- Appendix IV.—Report of Inspections.
- Appendix V.—Tariff Report.
- Appendix VI.—Rules of Procedure.
- Appendix VII.—Recent Transportation Laws.
- Appendix VIII.—Circulars Issued.
- Appendix IX.—Financial Statement.

Respectfully submitted,

UNION B. HUNT,  
Chairman.  
C. V. McADAMS,  
W. J. WOOD,  
Commissioners.

## **APPENDIX I.**

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### **Formal Proceedings.**



## Formal Proceedings.

No. 32.—**Ex parte, Baltimore & Ohio Railroad and Grand Rapids & Indiana Railway Company.**

1. Since our last annual report an inspection of the interlocking plant at the crossing of these lines was had by the Commission's inspector and the plant approved and the roads authorized to run the crossing without stopping after July 3, 1907.

No. 51.—**Ex parte, Chicago, Cincinnati & Louisville Railway Company and Chicago, Indianapolis & Louisville Railway Company.**

1. Subsequent to our last annual report our inspector examined the interlocking plant at the crossing of these lines at Hammond, Indiana, and upon his report being filed the plant was approved and the roads authorized to run the crossing without stopping after May 15, 1907.

No. 54.—**Ex parte, Baltimore & Ohio Railroad Company, Cleveland, Cincinnati, Chicago & St. Louis Railway Company, and Winona Interurban Railway Company.**

1. Subsequent to our last annual report amended plans were filed in this proceeding, including the Winona Interurban Railway Company. The plant was inspected and its operation authorized after September 21, 1907.

No. 56.—**Indianapolis & Louisville Railway Company v. Southern Indiana Railway Company.**

1. Subsequent to our last annual report the petitioner in this case on June 26th filed plans for an interlocking plant at the crossing of these lines at Midland, Indiana. The plans were submitted to the Commissioner's consulting engineer, and upon his report being filed the plans were approved and the plant is in course of construction.

No. 63.—**National Refining Company, The Tiona Refining Company, and Evansville Oil Company v. Baltimore & Ohio Railroad Company, and forty other steam railroads doing business in the State of Indiana.**

1. Subsequent to our last annual report this cause was heard by the Commission and taken under advisement, and pending its consideration by the Commission the petitioners, upon leave granted by the Commission, withdrew their petitions and the cause was accordingly dismissed.

No. 67.—**Ex parte, Pittsburgh, Ft. Wayne & Chicago Railway Company, and Chicago Terminal Transfer Railroad Company.**

X 1. Subsequent to our last annual report the interlocking plant at the crossing of these lines at Whiting, Indiana, was inspected by the Commission's engineer, and upon his report being filed the plant was approved and the companies authorized to operate the crossing without stopping after December 6, 1906.

No. 68.—**Ex parte, Pittsburgh, Cincinnati, Chicago & St. Louis Railway Company, Cleveland, Cincinnati, Chicago & St. Louis Railway Company, and Baltimore & Ohio Southwestern Railway Company.**

X 1. Subsequent to our last annual report the plant at the crossing of these lines at Jeffersonville, Indiana, was examined by the Consulting Engineer, and his report having been filed, the plant was approved and the companies authorized to operate over such crossing without stopping after October 15, 1907.

No. 69.—**Ex parte, Chicago, Cincinnati & Louisville Railroad Company, Chicago, Indiana & Southern Railway Company, and Chicago & Erie Railroad Company.**

1. Subsequent to our last annual report the Commission's Consulting Engineer inspected the interlocking plant at the crossing of these railroads at Highland, Indiana, and upon his report coming in the plant was approved and the roads authorized to operate the crossing without stopping after December 28, 1906.

No. 70.—**Ex parte, Chicago & Erie Railroad Company, and the New York, Chicago & St. Louis Railroad Company.**

1. Subsequent to our last annual report the Commission's Consulting Engineer examined the interlocking plant at the crossing of

these railroads at a drawbridge west of Hammond, and upon his report being filed the plant was approved and the companies authorized to operate the crossing without stopping after April 19, 1907.

**No. 71.—Ex parte, Ft. Wayne, Bluffton & Marion Traction Company, and the Chicago & Erie Railroad Company.**

1. This is an application for an interlocking plant at the crossing of these lines at Kingsland, Indiana. The proposed plans and revisions thereof were submitted to the Commission's Engineer, and his report being filed the plan was approved.

2. Upon completion of the plant the same was inspected by the Commission's Consulting Engineer, and upon his report being filed the plant was approved and the companies were authorized to operate the crossing without stopping after August 12, 1907.

**No. 72.—Ex parte, Southern Indiana Railway Company and the Chicago & Eastern Illinois Railroad Company.**

1. Application by these companies for an interlocking plant at their crossing at Dewey, Indiana. Plans were submitted and approved by the Commission's Consulting Engineer and by the Commission.

2. After the construction of the plant the same was inspected by the Commission's Chief Inspector, and upon his report being filed the plant was approved and the companies authorized to operate the crossing without stopping after June 19, 1907.

**No. 73.—Jno. D. Moore, and others, v. The Southern Indiana Railway Company.**

Faith & Faith, for petitioner;

W. T. Abbott, for respondent.

1. This was a petition to the Commission requesting the fixing of rates on gravel in carloads from Elnora to Odon and Union Switch when coming off the E. & I. R. R. at Elnora. The facts as they appeared at the hearing, and the conclusions of the Commission thereon are set forth in the following opinion by:

McAdams, Commissioner.—The petitioners are gravel road contractors, and are also engaged in producing gravel for their own use and for sale. Their plant for that purpose is located at Eliston, on the Evansville & Indianapolis Railroad, and consists of a boat and a pump with which the gravel is pumped from a bar in

White River, elevated, washed and screened, and then loaded on cars at the siding constructed along the river bank. The gravel thus produced is of a superior quality for building and repairing highways.

The E. & I. Railroad makes a rate on this gravel for building and repairing roads and streets, as follows:

Elliston to Elnora, 13 miles, 25 cents per cubic yard.

Elliston to Plainville, 20 miles, 30 cents per cubic yard.

Elliston to Washington, 32 miles, 40 cents per cubic yard.

Minimum carload, 20 cubic yards.

The petitioners desire to sell this gravel to customers for use, and to use the same themselves, in constructing and repairing gravel roads in the vicinity of Odon, in Daviess County. This territory is wholly dependent on the respondent and its connections for the transportation of suitable road materials. Several highways have been delayed in construction, and several have gone without proper repair on account of the difficulties experienced in getting suitable material for construction and repair work. This difficulty has been produced by rates charged and proposed to be charged by the respondent for moving gravel coming off the E. & I. at Elnora. The distance from Elnora to Odon is six miles, and from Elnora to Union Switch it is eight miles. The only rates on file with the Commission and now effective upon gravel from Elnora to Odon and Union Switch, the points of distribution for the north portion of Daviess County, are sixty cents per ton, or ninety cents per yard, and being the respondent's local distance commodity tariff. Prior to the filing of this petition, which complains of the rate from Elnora to Odon and Union Switch, these railroads agreed to make a joint rate from Elliston to Odon of eighty-five cents per yard, to be divided twenty-five cents to the E. & I. and sixty cents to the respondent. The petitioners claiming that they are unable to use such rates and to successfully bid for gravel road contracts, or dispose of their gravel for use in that territory, have filed the petition now under inquiry. The cause was assigned for hearing in December last, and pending the hearing the parties on the day of the trial made an agreement that the rate should be twenty-two and a half cents per ton, or thirty-three and three-quarters cents per yard from Elnora to Odon and Union Switch, and the cause was dismissed. Subsequently a dispute arose as to the terms of the settlement and the rate was never published, and at the request of the parties the dismissal was set aside and they have been heard. In addition to the foregoing facts it also appears that the respondent has gravel



on its line at Terre Haute, distant fifty-two miles from Odon, and, according to the tariffs on file, its rate on such gravel is forty cents per ton, or sixty cents per yard from the pit to this territory.

Other rates on respondent's line follow:

#### GRAVEL.

From Terre Haute to Sullivan, 27 miles, 26½ cents per ton; 39¾ cents per yard.

From Terre Haute to Linton, 35 miles, 35 cents per ton; 52½ cents per yard.

From Terre Haute to Libertyville, 18 miles, 30 cents per ton; 45 cents per yard.

#### CRUSHED STONE.

Rock Ledge to Seymour, 60 miles, 37 cents per ton.

Rock Ledge to Terre Haute, 72 miles, 30 cents per ton.

Rock Ledge to Sullivan, 73 miles, 35 cents per ton.

Rock Ledge to Odon, 20 miles, 30 cents per ton.

#### COAL.

Linton to Terre Haute, 34 miles, 30 cents per ton.

Linton to Odon, 18 miles, 40 cents per ton.

Linton to Sullivan, 40 miles, 25 cents per ton.

Linton to Coalmont, 12 miles, 20 cents per ton.

#### JOINT COAL RATES.

Linton to Morefield, 139 miles, 50 cents per ton, C., H. & D.

Linton to Indianapolis, 107 miles, 50 cents per ton, Big Four.

Linton to Lafayette, 171 miles, 65 cents per ton, Big Four.

The following rates are on file and effective on the B. & O. S. W. into Daviess County and other contiguous territory applying on road materials and analogous shipments:

Bedford to River Vale, 10 miles, \$3.00 per car, rough stone.

Mitchell to Vincennes, 63 miles, 50 cents per ton, crushed stone.

Loogootee to Vincennes, 33 miles, 50 cents per ton, sand.

Vincennes to Wheatland, 12 miles, 22 cents per ton, gravel.

Vincennes to Washington, 19 miles, 20 cents per ton, gravel.

Vincennes to Connelsburg, 28 miles, 30 cents per ton, gravel.

Hyatts to Washington, 4 miles, 16 2-3 cents per ton, gravel.

The Commission, from an examination of these rates, and knowing the respondent's participation therein so far as its line is affected, concludes that a material reduction should be made in the rate on gravel from Elnora to Odon and Union Switch. This conclusion is forced upon the Commission, not only from a consideration of these rates, but more largely by the necessities of the case.

The respondent cannot successfully defend its position assumed at the hearing when it claimed that it may properly deny rates upon traffic from its connections with a view to the protection of materials on its own line where it performs the entire service. The Commission cannot accede to this principle in any case, and it is especially objectionable here for the reason that the material off the connecting line seems to be the better, and to be greatly desired for use at these points if a rate can be had at which it can be used. In addition to this we conclude that it is the duty of the respondent to carry a very low rate upon materials for road construction and repair. It is certainly a very narrow policy on the part of a railroad to refuse the most favorable rates and the most favorable conditions and service which will aid in the development of the country through which its line passes. Nothing adds so much to the development of an agricultural community like this as the improvement of the highways. Our State leads the Union upon this important question, and no carrier should stand in the way of still greater and better development of our public highways.

It is the judgment of the Commission that the rate from Elnora to Odon and Union Switch should not exceed 25 cents per yard on gravel when coming off the E. & I. The Commission has instituted a general inquiry to cover the entire State upon the subject of rates upon road materials. This hearing will be had on September 25th next. The rate ordered in this case will be made to operate only until that inquiry has been determined, and jurisdiction of the case will be retained for the purpose of making such further orders as may be necessary after the conclusion of that inquiry, to which the respondent will be a party.

An action is pending in the Jackson Circuit Court to set aside the order made in this cause.

**No. 74.—Ex parte, Ft. Wayne & Wabash Valley Traction Company and the Toledo, St. Louis & Western Railway Company.**

1. This is an application for the approval of an interlocking apparatus at the crossing of these lines at Bluffton, Indiana. The plans as finally approved provide for an electric appliance for locking the crossing to be operated from a cabin by the motorman of the traction company.

2. The construction and operation of the plant were approved on September 6th, and the plant put in operation.

3. The Clover Leaf Company having made complaint to the Commission as to the operation of the plant, our Chief Inspector examined the same on November 11th, and found the same defective and the machine was put out of service until repairs could be made.

**No. 75.—Romona Oolitic Stone Company v. The Vandalia Railroad Company and the Chicago, Indianapolis & Louisville Railway Company.**

1. This was an application by the petitioner concerning coal rates. The same was filed December 15, 1906.

2. The legislature having made material changes in the statute, the petitioner, on April 11, 1907, dismissed this cause of action. (See No. 92.)

**No. 76.—Ex parte, Chicago, Indiana & Southern Railroad Company, and the Michigan Central Railroad Company.**

1. Application by these companies to make additions to the interlocking plant at the crossing of their lines at Gibson, Indiana. The plans were submitted to the Consulting Engineer, and upon his report being filed the plans were approved and the plant is now in the course of construction.

**No. 77.—Ex parte, Pittsburgh, Cincinnati, Chicago & St. Louis Railroad Company, and the Chicago & Erie Railroad Company.**

1. Application by these lines for an interlocking plant at their crossing at Kouts, Indiana. The plans were submitted to the Consulting Engineer, and upon his report being filed the same were approved.

2. The plant having been constructed, the same was inspected by the engineer and approved by the Commission, and the companies authorized to operate the crossing without stopping after August 31, 1907.

**No. 78.—Ex parte, Louisville & Nashville Railroad Company, long and short haul petition.**

1. This is an application by the petitioner to be allowed to charge more for the transportation of freight to points intermediate between Evansville and Mt. Vernon, Indiana, than it charges for transporting like freight from Evansville to Mt. Vernon.

2. Notice of the petition was given in the Evansville Journal-News, and no one appearing to defend the petition, and it appearing to the Commission that on account of the competition of water transportation on the Ohio river, that the petitioners should be granted the relief asked, it was accordingly ordered.

**No. 79.—Ex parte, the Southern Railway Company, long and short haul petition.**

1. This is an application by the petitioner to be allowed to charge less for hauling freight from Evansville, Indiana, to Rockport, Troy, Tell City and Cannelton, Indiana, than it charges for hauling like freight to points intermediate between Evansville and Rockport, Troy, Tell City and Cannelton on account of the competition caused by river transportation.

2. Notice of the filing of the petition was published in the Evansville Journal-News, and it appearing to the Commission that competition caused by river transportation being sufficient justification for the petition, the prayer thereof was accordingly granted.

**No. 80.—Ex parte, Elgin, Joliet & Eastern Railroad Company, and the Chicago, Indianapolis & Louisville Railway Company.**

1. Application by these companies for improvements in and additions to the interlocking plant at the crossing of their lines at Dyer, Indiana. The plans were submitted to the Consulting Engineer, and upon his report the same were approved and the plant is now in the course of construction.

**No. 81.—Ex parte, Chicago, Indianapolis & Louisville Railway Company.**

1. Application by the petitioner to be allowed to maintain guard rails in its interlocking plants at Greencastle, Delphi, Dyer and St. John. The petition was referred to the Consulting Engineer, and upon his report coming in the Commission ordered that petitioner be allowed to maintain the guard rails in its plants at Greencastle, Delphi, Dyer and St. John, excepting that 25 feet of the guard rail in use at Delphi should be removed.

**No. 82.—Ex parte, Cincinnati, Hamilton & Dayton Railroad Company.**

1. This is an application by the petitioner to be allowed to continue the use of guard rails in its interlocking plant at Hillsdale,

Indiana. The petition was referred to the Consulting Engineer, and upon his report being filed it was ordered by the Commission that the petitioner be allowed to continue the use of such guard rails.

**No. 83.—Ex parte, Vandalia Railroad Company and Wabash Railroad Company.**

1. Application by these companies to make improvements in interlocking plant at the crossing of their lines at Clymers, Indiana. The plans were submitted to the Consulting Engineer, and on his report being filed the same were approved and the improvements are now being installed.

**No. 84.—Ex parte, Toledo & Chicago Interurban Railroad Company, and the Vandalia Railroad Company.**

1. Application by these companies for an interlocking plant at the crossing of their lines at Cedar, Indiana. The plans were submitted to the Consulting Engineer, and on his report being filed the same were approved.

2. After the construction of the plant the same was examined by the Commission's Engineer, and on his report thereon being filed the plant was approved and the companies authorized to operate the crossing without stopping after September 24, 1907.

**No. 85.—Ex parte, Cleveland, Cincinnati, Chicago & St. Louis Railroad Company, and the Indianapolis, Crawfordsville & Western Traction Company.**

1. Application for an interlocking plant at the crossing of these lines at Moorefield, Indiana. After the Consulting Engineer reported on the plans the same were approved and the plant is now in the course of construction.

**No. 86.—Ex parte, Pittsburgh, Ft. Wayne & Chicago Railroad Company, Lake Erie & Western Railroad Company, and the Vandalia Railroad Company.**

1. Application for an interlocking plant at the crossing of these lines at Plymouth, Indiana. After examination of the plans by the Commission's Engineer the same were approved by the Commission and the plant is now being constructed.

No. 87.—**Ex parte, The Indianapolis Union Railway Company.**

1. Application by the petitioner to be allowed to continue the use of guard rails at the interlocking plant on its line at the crossing of the St. Louis Division of the Big Four Railroad Company in the City of Indianapolis. The petition was referred to the Commission's Engineer, and upon his approval an order was issued permitting the petitioner to continue the use of such guard rails as indicated in the petition.

No. 88.—**Ex parte, The Vandalia Railroad Company, long and short haul petition.**

1. Application by the petitioner to be allowed to charge less for hauling coal from mines on its various divisions to Michigan City, Indiana, via Lafayette, Indiana, and the Monon Railroad. Notice of the petition was published in the Lafayette Morning Journal, and the petition was heard by the Commission and an order entered permitting the petitioner, in conjunction with the Monon Railroad, to charge less for hauling coal from such mines to Michigan City than it charges for hauling like coal from the same mines to points intermediate between Michigan City and Lafayette, Indiana.

No. 89.—**Ex parte, The Baltimore & Ohio Railroad Company.**

1. Application by the petitioner to be permitted to continue the use of guard rails at its interlocking plants at St. Joe, Alida, McCools, Willow Creek, Millers, Indiana Harbor and Whiting. This petition was referred to the Engineer, and upon his report being filed the petition was denied, excepting as to certain guard rails, in the plant at Indiana Harbor, and as to those the company was permitted to maintain same.

No. 90.—**Ex parte, Chicago, Indiana & Southern Railroad Company, and the Cleveland, Cincinnati, Chicago & St. Louis Railroad Company.**

1. Application by these companies for the approval of additions to the interlocking plant at the crossing of their lines at Sheff, Indiana. An inspection of the plans and plant was made by the Consulting Engineer, and his report being filed the same was approved and the companies authorized to operate the improved crossing without stopping after April 9, 1907.

**No. 91.—Ex parte, The Baltimore & Ohio Southwestern Railroad.**

1. Application by the petitioner to be allowed to continue the use of guard rails at its interlocking plants at East and West Lawrenceburg, Indiana. The petition was referred to the Consulting Engineer, and upon his report being filed the Commission denied the same as to the interlocking plant located at East Lawrenceburg, and denied the same as to the guard rail in the west-bound main at West Lawrenceburg, and granted the same as to the guard rail in the east-bound main at West Lawrenceburg.

**No. 92.—The Romona Oolitic Stone Company v. The Vandalia Railroad Company, and the Chicago, Indianapolis & Louisville Railway Company.**

Walter Kessler, for the petitioner.

S. O. Pickens, for the Vandalia.

E. C. Field, for the Monon.

1. This was a petition concerning the rates on coal from mines on the Vandalia Railroad Company to Stinesville, Indiana, via Gosport Junction and the Monon Railroad.

2. The cause was heard and determined and the Vandalia Railroad Company published the rate ordered by the Commission. The Monon Railroad Company brought a suit in the Superior Court of Tippecanoe County to set aside the order of the Commission, and asked for a temporary restraining order against the Commission, which was refused by the court.

3. Subsequently the Vandalia Railroad Company files its application with the Commission to divide the rate so fixed by the Commission between the two companies. (See cause No. 200.) Pending the consideration of this cause the rate fixed by the Commission was changed from 50 cents to 55 cents, and the suit was dismissed by the Monon Railroad. The facts appearing in this cause and the conclusions of the Commission thereon are set forth in the following opinion by:

McAdams, Commissioner.—The petitioner owns and operates three stone mills and quarries connected therewith. One is located at Romona, south of Gosport Junction, on the Vincennes division of the Vandalia Railroad. The others are located at Stinesville, on the Monon Railroad, south of Gosport Junction. Coal is largely used at these mills for steaming purposes.

There are located on the Monon line, between Gosport on the north and Bedford on the south, some fifty stone mills or quarries, which produce, finish and ship large quantities of stone.

The last annual report of the Monon Company shows that the tonnage originating from these industries amounted to 925,000 tons for the year, and constituted twenty-five (25) per cent. of the total tonnage of that company. This report also shows that the tonnage of bituminous coal handled by the Monon Company for the year is only about one-half its tonnage from stone, and that the greater part of it comes from its connecting lines, and this tonnage of coal includes not only the coal delivered to the stone quarries and mills, but includes also all the coal handled for all other industrial purposes and for domestic use over its entire line.

We are, therefore, justified in concluding that the tonnage of coal into the quarries and mills is but a small part of the total coal tonnage.

The Monon Road states that for years it has maintained throughout this stone district a uniform rate on inbound coal and a uniform rate on outbound stone, so that each of these industries stand in the same and an equal competitive condition with reference to the markets of the country.

Coal is mined on the Vandalia Railroad, the Southern Indiana Railroad, the B. & O. S. W. Railroad, the Illinois Central Railroad, and on the branches of the Monon Railroad, all of which is available for use at these stone industries, either by direct service of the line on which produced, or through the producing lines and its connections. In short, all these stone industries are located in the vicinity of the great coal producing area of Indiana, and the average distance from the center of the largest producing area at Linton to the stone field does not exceed seventy-five (75) miles via the various routes by which the traffic would naturally move.

Prior to and at the time this Commission was organized the Monon Company maintained a rate on coal to all these stone industries from mines reached by its rails of 80 cents per ton, and was also a party to a rate on coal off the Vandalia line and from the same coal producing field of 95 cents per ton. This latter rate being divided, 35 cents to the Vandalia and 60 cents to the Monon. Upon the application of the petitioner in this case, and after the hearing, this Commission reduced this rate, as applied to Stinesville, to 80 cents per ton, in accordance with the prayer of the petition that the joint rate should not exceed the single line rate of the



Monon. (Annual Report 1906, p. 75.) Subsequent to this action of the Commission the respondents agreed to the rate so ordered.

After the determination of that proceeding, the Commission, upon the petition of this applicant, reduced the single line Monon rate of 80 cents to 50 cents, as applied to Stinesville. (Annual Report 1906, p. 82.) The Monon Company reissued its coal tariffs, effective early in August, 1906, making all the rates in the stone district for coal off its rails 50 cents per ton, in harmony with the order of the Commission. That company, however, claims that this action was forced upon it by the rates then published by the Indianapolis Southern to points reached by it in the stone territory. On April 3, 1907, the Vandalia issued its No. 3175, joint coal tariff with the Monon, effective April 8, 1907, carrying rates on coal from lines on its Vincennes division to points on the Monon, Lafayette to Mitchell inclusive, of 75 cents per ton. This group covers 136 miles and extends 83 miles north and 10 miles south of the stone district on the Monon. The petition now before the Commission charges that this last rate is unreasonable and excessive, and that it should not exceed 50 cents. The rate is divided, 30 cents to the Vandalia for its haul from Dugger to Gosport Junction, a distance of 53 miles, and 45 cents to the Monon for its haul from the junction point to Stinesville, a distance of 4.7 miles, and delivery from there to the quarry or mills. The single mileage over the Monon, where it charges 50 cents per ton, is approximately 50 miles.

The records show that the coal now available upon the single line haul over the Monon is not of as good quality as that obtainable off the Vandalia and other lines entering the Linton district. That the petitioner made a bona fide effort to obtain its fuel upon the Monon rails, but was compelled to cancel its contract and obtain a supply elsewhere. Bedford and Bloomington are the largest centers of the stone industry. At the former we find the Southern Indiana and the B. & O. S. W. both competing for the coal business at a 50-cent rate, while at Bloomington we find the Indianapolis Southern competing for the business at a like rate. The petitioner does not have these facilities for reaching the better coals, and the observance of competitive rates at those points by the Monon and other higher rates for joint services at non-competitive points results in depriving the mills and quarries so located from enjoying these equal advantages which the Monon insists so strenuously should be accorded to all the industries on its line. Upon the record in this case, we cannot escape the conclusion, in view of the excessive division received by the Monon, that it has a purpose to

favor the coal produced on its line to the disadvantage of the coal found on connecting lines. The Commission cannot accede to the right of a carrier to so frame its traffic with its connections as to result in limiting the inbound fuel or material to that found along its line, when so to do results in discrimination or disadvantage or undue prejudice to the industry or to the owners of material on its line or connecting line.

Hope Cotton Oil Co. v. The T. P. Ry. I. C. C., July 8, '07. A comparison of coal rates in effect on these and other lines follows:

SINGLE LINE RATES—BITUMINOUS COAL.

RATES IN CENTS PER TON.

From.	To.	Road.	Miles.	Rate.
Linton.....	Bedford.....	Southern Indiana.....	50	\$0 50
Washington.....	Bedford.....	B. & O. S. W.....	59	50
Linton.....	Indianapolis.....	Southern Indiana.....	95	50
Dugger.....	Indianapolis.....	Vandalia.....	96	50
Dugger.....	Brooklyn.....	Vandalia.....	76	40
Dugger.....	Martinsville.....	Vandalia.....	67	30
Linton.....	Bloomington.....	Indiana Southern.....	40	50
Victoria.....	Stinesville.....	Monon.....	50	50
Victoria.....	New Albany.....	Monon.....	121	*50
Victoria.....	Lafayette.....	Monon.....	128	65
Victoria.....	Greencastle.....	Monon.....	103	50
Victoria.....	Frankfort.....	Monon.....	207	†75

\*Via Bloomfield.

†Via Monon.

DOUBLE LINE RATES—BITUMINOUS COAL.

RATES IN CENTS PER TON.

From.	To.	Roads.	Miles Each Road.	Total Miles.	Rate.	Junction.
Linton.....	Indianapolis.....	Southern Ind....	34	106	\$0 50	Terre Haute.
		Big Four.....	72			
Linton.....	Muncie.....	Southern Ind....	34	160	60	Terre Haute and Indianapolis.
		Big Four.....	126			
Dugger.....	Stinesville.....	Vandalia.....	53.3	58.0	75	Gosport.
		Monon.....	24.7			
Dugger.....	North Greencastle	Vandalia.....	53.3	78.6	60	Gosport.
		Monon.....	25.3			
Brasil.....	Michigan City.....	Vandalia.....	16.6	167.8	70	Limedale.
		Monon.....	151.2			
Dugger.....	Lafayette.....	Vandalia.....	96	186	65	Indianapolis.
		L. E. & W.....	89			
Dugger.....	Winchester.....	Vandalia.....	96	187	75	Indianapolis and Richmond.
		P. C. C. & St. L..	67			
Dugger.....	Ft. Wayne.....	G. R. & I.....	24	254	95	Indianapolis and Richmond.
		Vandalia.....	96			
		P. C. C. & St. L..	67			
		G. R. & I.....	91			

The Monon by counsel earnestly contends that the rates on coal on its line are much below the cost of transportation, and that they were published solely to meet competition at Bedford and Bloomington, so that they can retain the outbound stone business. An examination of these rates reveals the fact that their 50-cent rate extends to Greencastle, many miles north of the stone district, and since this proceeding has been pending the general freight agent of that company has asked permission of the Commission, and has been permitted to carry a rate of 50 cents to New Albany, 121 miles from the mines, and over that part of the company's line where it is most expensive to operate. The last annual report of this company shows that its earnings per ton per mile were about eight mills. The portion of the rate here in question which is given to this company amounts to seven and one-half ( $7\frac{1}{2}$ ) cents per ton per mile, counting an average of 1.3 miles from the main line to the quarries, or a total haul of six (6) miles. It is not possible at this time by any known method to arrive definitely at the cost of hauling any particular commodity for any specific distance. Improved methods of accounting may in the future furnish a basis for such calculations, but we have none now. We do not believe it competent to determine what rate shall be charged by the consideration only of the expense of doing that particular business and the revenue to be derived therefrom, and we understand the courts have so decided.

Upon the whole record, after long consideration, we believe this joint rate should be reduced to not exceeding 50 cents per ton. We believe it is a fair rate and one that the companies can afford to carry for the purpose of treating all the mills alike and furnishing equal facilities to all. In coming to this conclusion we have not been unmindful of the effect of such conclusion upon the entire group of rates under discussion. The question as to how the rate should be divided between the respondents is not now before the Commission and has not been considered.

**No. 93.--Ex parte, The Grand Rapids & Indiana Railway Company.**

1. This is an application by the petitioner to be allowed to continue in use two overhead highway bridges on its line located respectively at Ft. Wayne and Lagrange, Indiana, the same having a clearance less than that required by the laws of this State. The Commission, having heard the cause and examined the drawings with reference to the same and being advised, denied the petition. (See Nos. 114 and 115.)

**No. 94.—Terre Haute, Indianapolis & Eastern Traction Company  
v. The Cleveland, Cincinnati, Chicago & St. Louis  
Railroad Company.**

1. This was an application by the petitioner to be allowed to cross the respondent's line, St. Louis Division, with its high tension transmission wires. Upon petition being filed notice was given the respondent, and pending the time allowed for answer, the companies adjusted the difficulty and the cause was dismissed.

**No. 95.—Railroad Commission of Indiana v. The Chicago & Erie  
Railroad Company, The Grand Rapids & Indiana  
Railway Company, The Cincinnati, Richmond & Ft.  
Wayne Railroad Company, and the Toledo, St. Louis  
& Western Railroad Company.**

1. This was a proceeding by the Commission against respondents to require the construction of an interlocking machine at the crossing of their lines at Decatur, Indiana. Parties heard, and after hearing the Commission ordered the construction of an interlocking plant at such crossing, and assigned the construction, maintenance and operation thereof to the Chicago & Erie Railroad Company, and apportioned the expenses of construction, maintenance and operation between the companies.

2. The Cincinnati, Richmond & Ft. Wayne Railroad Company brought a suit against the Commission in the Circuit Court of Wayne County to set aside the order of Commission and such cause is now pending on the rule of the court sustaining the Commission's demurrer to the complaint.

3. Plans for the plant were submitted to the Commission and approved and the plant has been constructed and was inspected by the Commission's Engineer on December 10, and upon his report being filed the plant was approved and the companies authorized to operate the crossing without stopping after that date.

**No. 96.—Railroad Commission of Indiana v. The Chicago, Indian-  
apolis & Louisville Railway Company, and the Board  
of Commissioners of Putnam County, Indiana.**

1. This was a proceeding by the Commission against the respondents, wherein the Commission ordered a highway bridge crossing the line of the Chicago, Indianapolis & Louisville Railway Company at Putnamville, Indiana, to be elevated so as to provide the overhead clearance required by law.

2. In accordance with the order of the Commission, the respondent railway company has elevated the bridge so as to furnish the required clearance.

3. This is the same bridge that was examined by the Commission and reported upon in its last annual report, where the company was recommended to make the change and the recommendation was disregarded. The present proceeding is pursuant to Section 11 of the Safety Appliance Act approved March 8, 1907, and demonstrates the necessity for that law.

**No. 97.—The City of Rushville v. The Cincinnati, Hamilton & Dayton Railway Company, and others.**

Geo. W. Young, for petitioner.

Elam & Feslar, for the respondents.

1. This was an application by petitioner to require the respondents to construct a new passenger depot at the City of Rushville. The cause was heard by the Commission at Rushville and an order made concerning the same. The orders of the Commission have so far been disregarded by the respondent, and on account of the fact that the company is in the hands of a receiver the Commission has taken no steps to enforce its order.

2. The facts as they appeared at the hearing and the conclusion of the Commission are set forth in the following opinion by:

Wood, Commissioner.—Formal complaint is made by the City of Rushville, Indiana, to the Railroad Commission, that the depot facilities of respondents at Rushville are inadequate and unsuitable for the accommodation of the traveling public.

The Commission visited Rushville, inspected the depot grounds and railroad connections and examined witnesses. Interrogatories were propounded to respondents, and after some delay answers, not altogether satisfactory, were made.

It is apparent that while the freight depot, constructed at an estimated cost of \$2,500, may be sufficient for the business now transacted the passenger depot facilities are inadequate and unsuitable. These consist of a waiting room 15 feet by 19 feet; office 10½ feet by 19 feet, and baggage room 9 feet by 12 feet. Its estimated cost was \$800, and this small building was remodeled in 1906 at a cost of \$500; hence, the company seems to have expended in original construction of passenger depots and repairs, about \$1,300 to \$1,500 at Rushville.

Rushville is a flourishing city of 6,000 people. It has schools and

churches, store houses, and business and manufacturing plants. It is surrounded by an exceedingly fertile and populous country. Excursions are made over respondent's line to Cincinnati and Indianapolis on alternate Sundays throughout the summer season, and large numbers of persons travel on these excursions. Respondent has the shortest line to Indianapolis, and its road is only about three miles longer than the Big Four to Cincinnati, and, although there is interurban competition, it has a large daily passenger business, as indicated by its passenger earnings, which the two-cent passenger law will probably increase. We have been unable to obtain from respondent its freight receipts before the year 1899, and its passenger receipts before the year 1902; but these are enough to show returns to warrant the expenditure of a sum of money sufficient to construct a suitable and adequate passenger depot at Rushville, such as carriers generally provide for cities of that size, and such as the law of this State requires them to maintain. The earnings of freight received and forwarded at Rushville for the five years preceding June 30, 1906, were \$228,749.41; and the passenger earnings at that station for the same period were \$144,709.40; the aggregate of passenger and freight earnings being \$373,458.81, or about \$75,000 annually. Certainly this amount of business, which, if stated for a longer period, would amount to one, or possibly to two million dollars, would justify respondents in expending, if necessary, more for a freight depot than \$2,500, and more for the accommodation of the people who paid into their treasury the large sum mentioned, and who use their railroads as passengers, than the insignificant sum of \$1,300.

In 1889 the General Assembly of Indiana passed an act on this subject. Again in 1895, Acts 1895, page 99, Burns' Statutes 1901, section 5188, superseding the act of 1889, the General Assembly provided: "That all railroad companies operating lines through cities and towns of one hundred population, or more, shall provide and maintain suitable waiting rooms, together with separate water closets for men and women for the convenience of the traveling public, and shall keep such rooms open for the period of not less than one hour next preceding the arrival of all passenger trains that are allowed by schedule or flagging to stop at pay stations." In the general Railroad Commission act of 1907, chapter 241, we have another expression of legislative will. The act provides, section 7, that the Commission, on the complaint of any municipal body, and after a hearing thereon, may enter an order requiring carriers to comply with the obligations of the act and other laws

of the State concerning the duties of such carriers in the performance of their duties to the public. Section 23 (b) enlarges the waiting room of the act of 1895 into an "adequate and suitable passenger depot building and platform, to be well lighted and heated, kept in an approved sanitary condition, supplied with wholesome water closets for men and women, and kept open at least one hour before and fifteen minutes after the arrival of each passenger train." The Commission is given power to report the want of such a depot as a defect or neglect in the operation or management of the railroad, and to recommend to the carrier "such reasonable changes and improvements of its buildings and accommodations as are in the opinion of the Commission necessary to remedy such faults, neglects, requirements or defects;" and if they are not made within a time to be specified by the Commission it may proceed in some court of competent jurisdiction to enforce compliance with its order.

We conclude from the investigation, hearing, and the facts stated that the respondent has not provided, as required by law, suitable and adequate depot and waiting rooms at Rushville, and that we have the authority to require the respondent to construct and maintain such a depot, and

It is therefore ordered, That a report be now made and served on the superintendent of said respondent; that the Commission on the 16th day of May, 1907, made an examination by inspecting the present passenger depot at Rushville, and finds that said depot is not suitable, and inadequate, in that it is too small; in that it does not have separate waiting rooms for men and women; in that it does not in any respect come up to the standard depot on American railroads for a city of the size of Rushville.

The Commission further recommends and orders that the respondent prepare and submit to the Commission within thirty days from the date of this order a plan for a standard passenger depot at Rushville, of adequate and suitable size for the accommodation of the traveling public at that station.

It is further ordered, That within ninety days after said plans are approved the respondents construct said passenger depot and have the same open to the public, and thereafter maintain the same for the accommodation of the public at said station.

No. 98.—**Preston T. Long v. The Cleveland, Cincinnati, Chicago & St. Louis Railway Company.**

Geo. E. Easley, for the petitioner.

Frank L. Littleton, for the respondent.

1. This was an application by the petitioners to require the respondent to construct an overhead highway crossing over its line in Hendricks County, Indiana. The cause was heard by the Commission at the site of the proposed crossing.

2. The Commission ordered the respondent to construct an overhead highway crossing and submit plans therefor. The plans were submitted and the crossing has been installed. The facts and order of the Commission appear in the following report by:

McAdams, Commissioner.—This cause coming on to be heard on this date, the Commission visited the site of the crossing in question, and after viewing the premises and hearing the statements of the parties and their counsel, and being fully advised in the premises, the Commission does now find the facts as follows:

1. That before the respondent commenced the improvements now in progress on its line the crossing in question was substantially upon the level with the surface of the adjoining lands.

2. That the improvement places the tracks of the railroad thirteen feet below the surface of the lands at the crossing.

3. That on account of the depth of the cut, being sixteen or more feet in some places, the view of approaching trains is cut off until the traveler upon the highway is within a few feet of the railroad tracks.

4. That the crossing, in its present condition, is extremely dangerous to the lives of travelers upon the highway and upon trains.

5. That it is not practicable to protect such crossing in any way except by an overhead highway bridge.

6. That such highway crosses the tracks at an angle, and that it is not advisable to construct a permanent overhead bridge on such angle, and that to properly protect such crossing by such a bridge some additional lands will be necessary, and a slight shifting in the line of the highway will have to be made.

Upon the foregoing facts the Commission now orders and directs as follows:

It is therefore ordered by the Commission, That the respondent proceed to protect the highway crossing its line at the point named in the petition herein by the construction and maintenance



of an approved and substantial highway bridge across its said tracks at such point.

And the respondent is ordered to prepare plans and specifications for such a structure and submit the same for the consideration of the petitioners and the approval of the Commission within twenty days herefrom, and the further hearing and conclusion of this proceeding is now postponed.

**No. 99.—Ex parte, Lake Erie & Western Railroad Company.**

1. This is an application by the petitioner to be allowed to maintain certain overhead and lateral clearances; namely, coal docks located at Altamont, Tipton, Portland, and a shelter shed over its side track serving the Noblesville Milling Company, and through truss railroad bridges over the Wabash River and White River near Peru and Muncie, Indiana.

2. After consideration the Commission entered an order permitting the company to maintain the coal docks mentioned, notwithstanding the fact that they do not furnish the necessary overhead clearance; on the condition, however, that box cars are not allowed to enter these coal docks. The petition was denied as to all the other structures.

**No. 100.—Ex parte, The Lake Erie & Western Railroad.**

1. This is an application by the petitioner for the approval of a device for the protection of its crossing with the Belt Line at Kokomo, Indiana. After interviewing the petitioner's engineer and examining the plans filed, the Commission entered an order permitting petitioner to run this crossing without stopping after April 27, 1907.

**No. 101.—Ex parte, The Angola Railway & Power Company.**

1. In this case the petitioner asked an extension of time within which it should be required to equip its cars with air brakes as required by the safety appliance law of this State. After considering all the circumstances connected with the operation of this line the Commission entered an order extending the time until the 1st day of May, 1908, within which cars operated on the line may be used without brakes, provided that all cars used must be equipped with a hand wheel brake in good condition, and that the cars so used shall not exceed 32 feet in length, and that the cars while passing over the streets of the city of Angola and at public highway cross-

ings and at meeting points with other cars should not be run at a greater speed than six miles per hour, and that at other points on the line cars should not be operated at a greater speed than twelve miles an hour.

No. 102.—**Ex parte, Cleveland, Cincinnati, Chicago & St. Louis Railway Company, and the Vandalia Railroad Company.**

1. Application for improvements in the interlocking device at the crossing of these lines at Colfax, Indiana. Plans therefor having been examined and approved, and the work having been completed, the same was inspected by the Commission's Engineer, and upon his report being filed the plant was approved and the companies authorized to operate the crossing without stopping after May 1, 1907.

No. 103.—**Railroad Commission of Indiana v. The Indianapolis Union Railway Company, Pittsburgh, Cincinnati, Chicago & St. Louis Railway Company, and the Cincinnati, Hamilton & Dayton Railway Company.**

1. This was a proceeding by the Commission against the respondents to require the construction of an interlocking machine at the crossing of their lines south of the intersection of the Belt Railroad and Washington street in the City of Indianapolis. The respondents having appeared in answer to notice and represented to the Commission that the probabilities were that the grade at such point would be separated as soon as the City of Indianapolis should proceed to separate the grade crossing of Washington street and the Belt Railroad, and relying upon such representation the Commission has refrained from entering an order requiring the construction of an interlocking plant at this place. The proceeding, however, is yet pending for such action as may be necessary, should the grades not be separated as proposed.

No. 104.—**Ex parte, The Chicago, Indianapolis & Louisville Railway Company, long and short haul petition.**

1. This was an application by the petitioner to be allowed to haul coal from the mines on its line to New Albany, Indiana, at a less charge than it makes for hauling like coal from such mines to points intermediate between New Albany, Indiana, and the mines.

2. Notice of the filing of the petition was published in the New Albany Evening Tribune, and the cause heard by the Commission, and an order granted permitting the petitioner to haul coal from the mines on its line to New Albany as prayed for in the petition at the rate of 50 cents per ton, notwithstanding it charges a higher rate for hauling like coal to intermediate points.

**No. 105.—Evansville & Terre Haute Railroad Company v. The Town of Ft. Branch.**

Iglehart & Taylor, for the petitioner.

C. O. Baltzell, for the respondent.

1. This was an appeal by the petitioner from an ordinance enacted by the town board of Fort Branch requiring the respondent to maintain certain protection for certain streets in that town.

2. The appeal was referred to Commissioner Wood, who visited the town and made an examination of the premises and conditions and filed a report, and the ordinance was sustained.

3. Subsequent to the action of the Commission, the respondent and the authorities of the town agreed upon a different protection, which was installed, and upon the application of the respondent a rehearing was granted and the ordinance passed by the Town Board was set aside. The report of Commissioner Wood upon this proceeding is as follows:

Wood, Commissioner.—In the above matter, I beg leave to report: On Friday, the 17th day of May, 1907, I visited the town of Fort Branch, Ind., and made a personal inspection of the crossings of the streets over the E. & T. H. R. R. in said town. Afterwards I called before me the town board of said town and the attorney and general superintendent of the railroad company, and examined witnesses, whose testimony is made a part of this report. I was in the town of Fort Branch about two hours. During that time four trains passed through the town, three of the four running about twenty miles an hour, while the ordinance of the city requires a speed of only eight miles an hour. The condition of the approaches on the streets on both sides of the railroad track are such that a view of approaching trains is obstructed. There are five churches, one schoolhouse, with three hundred children in attendance; twelve business houses, one coal mine, one lumber yard, the station of the traction line, and the depot of the steam railroad; the country around is fertile and thickly settled and as many as one hundred teams pass over some of these crossings during one day.

I find that the crossings in their present condition are dangerous and ought to be protected. The town board may have gone too far in the resolution passed by it, and it may be possible adequately to protect these crossings without so many electric bells and in a more practicable and satisfactory manner than in accordance with the resolution of the town board. At the conclusion of the examination held by me, I suggested to both parties that the best thing to be done was for the railroad company to submit a plan for protecting these crossings to the town board and railroad Commission, which, if satisfactory, could be adopted. The railroad company agreed to do this at as early a day as practicable. The town board and its attorney agreed that this would be the best course to pursue. In the meantime, I report an order, to the end that the Commission may comply with the terms of the statute requiring the appeal to be decided within twenty days.

No. 106.—**Ex parte, The Cleveland Grain Company.**

1. This was an application by the petitioner to be allowed to maintain over the sidetrack serving its elevator at Beech Grove, certain sheds which do not furnish the clearance required by law. A personal examination was made of the premises by Commissioner Wood, and upon his report being filed the application to maintain the same was denied. The Commissioner's report reads as follows:

Wood, Commissioner.—The above matter, the application of the Cleveland Grain Company to maintain an overhead obstruction at Beech Grove, was today considered by the Commission, and it appearing from the personal examination made by a member of the Commission, and from the testimony of E. A. Zeigler, general yardmaster of the Big Four at Indianapolis, that while switching is now done in the daytime, it will probably be necessary a little later on to do switching at said plant after dark, and further appearing from the testimony of said Zeigler, that while a car puller is now used at said plant, there are times when it is necessary to switch under said structure with engine and cars, and it is occasionally necessary for men to be on top of cars when said switching is done; and it appearing further from the testimony of said Zeigler that warning signals, or telltales, would not probably prevent an accident at said structure; and it appearing from the testimony of J. W. Burt, the resident engineer of the Big Four, that this shed could be elevated so as to comply with the law for about the sum of \$300, the following order should be entered:

Therefore, it is ordered by the Commission, That the petition of said Cleveland Grain Company to maintain said structure be and the same is hereby dismissed, without prejudice, and that a copy of this order be mailed to the Cleveland Grain Company.

**No. 107.—Ex parte, The Winona Interurban Railway Company.**

1. This was an application by the petitioner to be allowed to operate a single car over its Peru-Chili Division without being equipped with air brakes as provided by the laws of this State. The Commission, after considering the circumstances connected with the operation of this line, entered an order permitting the petitioner to operate a single car over such line until December 1, 1907, on the condition that no other cars should be operated over such division during such time, that the same should not be operated within the limits of any town or city at a greater speed than six miles per hour, and that such cars should not be operated over grade highway crossings at a greater speed than six miles per hour, and that it should not be operated over other portions of the line at a greater speed than twelve miles an hour, and that such cars should at all times be equipped with a good hand brake in good condition.

**No. 108.—Edw. S. Tull et al., Trading as The Corydon & Hub Factory v. The Louisville, New Albany & Corydon Railway Company.**

1. In this case the petitioners complained that the respondent discriminated against them with reference to charges for switching service, in that it charged the petitioners for performing switching while it did not charge other parties similarly situated.

2. The respondent tendered satisfaction of the matters complained of, which met with the approval of the Commission, and the Commission accordingly entered an order in accordance with the tender.

**No. 109.—Chicago, Indianapolis & Louisville Railway Company v. The Town of Roachdale.**

1. This is an appeal by the petitioner from an ordinance enacted by the board of trustees of the town of Roachdale concerning the protection of certain street crossings in such town.

2. The appeal was referred to Commissioner McAdams, who visited the town of Roachdale and made an examination of the situation and filed a report, and upon his report the ordinance was set

aside, and after considerable negotiation an agreement was entered into concerning the protection of such streets, for which see No. 126. The Commissioner's report reads as follows:

McAdams, Commissioner.—Pursuant to the directions of the Commission, I visited Roachdale, June 5, 1907, and made an examination of the situation presented by the appeal in the above cause. The railway companies were invited to be present, and the Monon was represented by J. B. Susece, superintendent, and W. A. Wallace, Division Engineer. The C., H. & D. was not represented. The town was represented by two members of the board of trustees and by the Town Clerk. After viewing the premises and fully viewing the situation, I beg leave to report as follows:

Location.—The Monon Railway at this point runs north and south, and the C., H. & D. east and west, crossing at grade. Each of the lines is straight and an approaching train may be seen for a mile or more in each direction from the crossing. Each of these lines has a team track, also a passing siding, and the lines are connected with a wye for transfer purposes. These lines use a depot in common, and have joint employes for the despatch of their business.

Conditions.—Roachdale has a population of a little more or less than one thousand, and is located principally in the southeast angle of the crossing of the railways. The school is located in this angle, also three of the four churches, and all of the business portion of the town. The streets are lighted by electricity, and the points in question where the streets cross the railways are lighted by electric lights until 11 p. m. The train movement each twenty-four hours over the C., H. & D. is sixteen trains, of all classes, and on the Monon twenty-one trains of all classes. On the C., H. & D. six of the trains pass during the night and ten during the day. On the Monon six pass during the night and fifteen during the daytime. The monthly receipts by the C., H. & D. range from \$1,500 to \$2,500, and the monthly receipts of the Monon from \$1,500 to \$2,000. This village is the center of a prosperous agricultural community, and opposing towns are located as follows: Ladoga, four miles north; Bainbridge, eight miles south; North Salem, ten miles east, and Russellville, ten miles west.

Obstruction.—There is no obstruction to the view on approaching the Monon tracks over Washington street from either direction, either upon the street or upon tracks. A person going west on Forest Home street could not see an approaching train from the

north on the Monon on account of a large elevator north of the street and abutting the Monon tracks on the east side. There is no other obstruction to the view of trains on the Monon or to travelers upon this street. The only obstruction on Indiana street is to persons going north as to trains going west on the C., H. & D., or passing from the C., H. & D. over the wye to the Monon. This is caused by an office and sheds of a lumber company, which are flush with the east side of the street and abut the wye connection.

Watchman.—The minimum monthly pay for a watchman is \$25 and the maximum \$35, as applied by the Monon Company. These places are usually filled by an old employe who is no longer able to perform manual labor.

Bells.—The cost of installing an electric bell, with 1,500 feet of track circuit on each side of the bell, is about \$150, and the annual maintenance about \$15. A large portion of the through passenger service over these lines between Chicago and Cincinnati is transferred at this point. All trains passing this point must stop at the crossing. All the local freight train's work must be done in the vicinity of the crossing. To make connection trains many times wait and stand upon the tracks, switches or wye; for these reasons an electric bell with a track circuit would not be advisable, as the bell would ring many times when there was no danger and continue to ring long after the danger had passed, and would unnecessarily delay traffic.

In my judgment, the regulation requiring watchmen at these crossings is not justified by the facts and situation, unless it is to be the rule of the Commission that all street crossings shall be protected in some manner. The traffic over these crossings is not heavy, as I observed it. It is, of course, more dense on Saturdays, and possibly on Sundays and holidays. There should be some protection furnished, and I beg to suggest that these three crossings may be securely safeguarded at less expense to the company and with more satisfaction to the people than by watchmen. I suggest the location of a tower in the southeast angle of the crossing and the location of bells at these crossings connected with the tower through aerial circuits, and that they all be operated from the tower, where a competent employe shall be located at all times, from sunrise to sunset. The apparatus should be constructed and operated subject to the approval of the Commission, and at the joint expense of the two companies, two-thirds of which should be paid by the Monon Company, and one-third by the C., H. & D. Company.

If this report is approved, the ordinance should be disapproved and be set aside, and an order entered by the Commission requiring crossings to be protected in the manner suggested.

**No. 110.—Ex parte, Baltimore & Ohio Railroad Company, and the Lake Shore & Michigan Southern Railroad Company.**

1. This is an application for an interlocking plant at the crossing of these lines at Auburn Junction. Several sets of plans were filed and referred to the Commission's Engineer, and upon his report being filed the plans were approved and the plant is now in course of construction.

**No. 111.—The Town of Fort Branch v. The Southern Indiana Traction Company.**

C. O. Baltzell, for the petitioner.

Robinson & Stilwell, for the respondent.

1. This is an application by the petitioner to have the Commission enter an order requiring the respondent to maintain lights at certain street crossings in the town of Fort Branch which are intersected by the respondent's railway. The respondent moved to dismiss the petition for want of jurisdiction in the Commission to enter the proposed order. Oral argument was had and briefs filed. After due consideration the Commission sustained the motion and dismissed the cause. The views of the Commission are expressed in the following opinion:

McAdams, Commissioner.—The respondent is engaged in the operating of a street railroad in the city of Evansville, Indiana, and an interurban railroad from that city to the city of Princeton, in said State, passing en route through the incorporated town of Fort Branch, which is the petitioner herein. The petitioner alleges that the crossings made by respondent's railroad over Vine, Foster and Walnut streets, in the town of Fort Branch, are dangerous, and that it is necessary for the protection of the people of the town that lights be maintained at such crossings, and that the town is lighted by electricity, and that the respondent had maintained lights at such crossings until shortly prior to the filing of the petition, when they were discontinued, and that the respondent had refused, upon application, to renew the same, and the petitioner invokes the authority of the Commission to require the renewal of this protection. The respondent charges in its answer that its line through such



town is laid in McCarary street, pursuant to a franchise granted to it by the petitioner. The respondent challenges the power and authority of the Commission to hear this petition or enter an order thereon.

For the purpose of determining this contention, we assume the truth of all the facts charged in the petition and answer as above detailed.

This Commission is a statutory body created by the legislature and possesses only such powers and authority as have been clearly conferred upon it by the lawmaking body, and such additional authority as may be held to be reasonably necessary for the proper execution of the powers and authority so granted and to properly discharge its duties therein. Therefore, if there be any authority for this proceeding, it must be found in the statutes. The authority sought to be invoked cannot arise by implication, nor can the Commission by assumption of authority add anything to the will of the legislature as expressed in the published acts. It is sought by the petition to invoke the police power of the state to protect these crossings to the end that life and property may be more secure. There can be no doubt that the legislature may authorize the protection which is sought in this case and vest in this Commission the authority to require and enforce it, and so much is in substance conceded by the respondent. The contention, however, of the respondent is, that the legislature has not delegated this power and authority to the Commission. The petitioner contends that the provisions of paragraph B of section 19, of the act approved March 9, 1907 (Acts 1907, p. 485), authorize this proceeding, and that the authority there given the Commission authorizes the making of the order asked for.

After careful consideration of this question, we have concluded that this contention cannot be sustained. We are of the opinion that the questions as to whether the respondent's railroad is an additional burden on the property owners along the street, or upon the street itself, or upon the public at large, are not of controlling force or of great importance in the solution of this question. The sole question is, has the legislature given the Commission this authority? Recent legislation has given to the Commission very extensive authority concerning the safe and secure construction and operation of railroads in this state, and this authority extends to the interurban lines. If the petition in this case referred to the physical condition or manner of operation of respondent's line in any particular, except those specially excepted by statute, we

would gladly sustain the same, but the petition does not proceed upon that theory and could not from the nature of the relief sought. The subject of the petition does not involve the physical property of the company or the manner in which it is operated. It is not alleged to be defective in any way, nor is it charged that the operation of the road is defective in any manner. The petition seeks to have the company provide artificial lights at street crossings, while cars pass, and it may be conceded upon the record that this is necessary for the security of the public who travel the streets. We believe that under the statute cited that the Commission has authority to require the protection of a "wagon road crossing," as named in that statute, but we do not believe that a "wagon road crossing," as used in this statute, refers to streets in cities and towns. Every one familiar with the course of legislation in this state must concede the fact that it has been the policy of the legislature to confer on cities and towns the right to control their streets and to exercise such police powers with reference thereto as the legislature has seen fit to delegate. This policy has probably been more strictly manifested in reference to railroad legislation and the relation of this Commission thereto, than in any other way. Recent legislatures provided that the Commission in certain instances should supervise the elevation of tracks or the separation of grades, but by special statutes it has conferred authority upon certain cities to act independently of the Commission (Acts 1907, p. 468, p. 539; Acts 1905, p. 129, p. 144). The Commission is given authority to require the construction of interlocking machines at railroad crossings throughout the state, but this authority cannot be exercised in cities and towns as to steam roads without the consent of the council or board of trustees, nor can the authority be exercised, as to interurbans in city and town streets in any instance. (Acts 1907, p. 466.) The Commission may forbid certain dangerous overhead structures on railroads, but it cannot do so within the limits of towns and cities in this state (Acts 1907, p. 189.) The Commission is given authority to determine in what manner railroads shall cross each other in this state; where the crossing is upon a street in a town or city, the proper authorities must consent thereto before the Commission can act. (Acts 1907, p. 464.)

While these statutes do not control this case, they are valuable for consideration in determining the policy of the legislature with reference to the delegation of control over the streets in cities and towns in connection with legislation of this character. By another statute (Acts 1907, p. 123) towns are given authority to require

steam railroads to light street crossings, but the same statute in specific terms denies such authority as to interurban railroads, thereby positively indicating a different policy and rule for the different kinds of railroads. Being confronted with this unmistakable evidence of the legislative policy and there being an absence of any specific statute conferring the authority to grant the relief sought in this case, we are compelled to hold that it does not exist, and that consequently we are without jurisdiction in the premises, and the petition should be and is therefore dismissed.

**No. 112.—Ex parte, The Central Indiana Railway Company.**

1. This was an application by the petitioner to be allowed to maintain an overhead bridge on its line, the same not having the clearance required by the statute. After due consideration the petition was denied.

**No. 113.—Ex parte, The Central Indiana Railway Company.**

1. This is an application by the petitioner to be allowed to maintain a railway bridge over Cicero Creek on its line, the same not having the standard clearance required by law. After due consideration by the Commission, the application was denied.

**No. 114.—The Railroad Commission of Indiana v. The Grand Rapids & Indiana Railway Company.** ✕

1. In this proceeding the Commission, after due investigation and being fully advised, entered an order against the respondent requiring it to elevate the highway bridge over its line near Lagrange, in this State, and the work is now in process of construction.

**No. 115.—The Railroad Commission of Indiana v. The Grand Rapids & Indiana Railway Company.**

1. In this proceeding the Commission, after due investigation and being fully advised, entered an order against the respondent requiring it to elevate the highway bridge over its line at Fort Wayne, in this State, and the work is now in process of construction.

**No. 116.—Ex parte, The Pittsburgh, Ft. Wayne & Chicago Railroad, Lake Shore & Michigan Southern Railway, and the Grand Rapids & Indiana Railway.**

1. This was an application for an improvement in the interlocking plant at the crossing of these lines at the junction west of Fort Wayne. Several plans were submitted and considerable negotiations had, finally resulting in the approval of the plans on November 23, 1907, and the plant is now in process of construction. The investigations in this case developed the necessity of modifying rule 6 concerning interlocking devices, and the amended rule will be found at the appropriate place in this report.

**No. 117.—Ex parte, The Cleveland, Cincinnati, Chicago & St. Louis Railway Company.**

1. This was an application by the petitioner to be allowed to maintain certain lateral structures which do not have the clearance required by the laws of this State. After long consideration the Commission denied the application in this cause and the reasons therefor appear in the following opinion:

McAdams, Commissioner.—The applicant in this case has filed a petition under section 12 of the act approved March 8, 1907, concerning the maintenance of lateral structures. In this petition the applicant seeks an order from the Commission authorizing it to maintain such structures as follows:

First—Certain platforms for loading and unloading freight to and from freight cars, the clearance of which from the widest part of the widest car would not be eighteen (18) inches.

Second—Certain station platforms upon which passengers pass to and from its passenger trains which said platforms are so constructed that there is less than eighteen (18) inches clearance between them and the lower steps of passenger coaches.

Third—Certain roundhouses for the storage and repair of locomotives, entrance to which roundhouses have not been constructed with a clearance of eighteen (18) inches from the nearest point of contact with the widest locomotive cab in use. This clearance being less than eighteen (18) inches at the sides as required by section 12 of said act.

Fourth—Certain wing fences, at cattle guards on the sides of highway, which approach within eighteen (18) inches of the lower projecting portion of the widest freight cars and the steps of passenger coaches operated over its line.

Fifth—Certain mail cranes along its line used for the purpose of trains taking mail while in motion.

Sixth—Certain dwarf switches and signals, some of which are within eighteen (18) inches of the nearest point of contact with the widest part of a passing car or locomotive.

The section of the statute under which this petition is filed reads as follows:

Section 12—"It shall hereafter be unlawful for any steam railroad carrier in this state, engaged in operating a line of standard gauge railroad in this state, to build any structure of any kind, or any existing railway bridge, or to rebuild any existing structure of any kind, or any existing railway bridge, along the line of any such railroad in this state, in which that part of any such structure or bridge nearest the track shall be less than eighteen (18) inches from the nearest point of contact with the cab of the widest locomotive that is now or may hereafter be used, or less than eighteen (18) inches from the nearest point of contact with the widest part of any car that is now or hereafter may be used, on any such railroad, without first obtaining the permission of the Railroad Commission of Indiana so to do."

The Commission assumes that all the structures mentioned in his petition were in existence at the time this act was passed and so considering the petition it concludes that all the subjects embraced in the petition are without the jurisdiction of the Commission.

By the express terms of section 12 of this statute it does not apply to existing structures but only to such structures as shall hereafter be rebuilt or to new structures erected after the approval of the act.

The Commission may have authority concerning the dangerous character of such structures under the laws of this state and possibly could after proper proceeding take affirmative action against the company to require corrections where determined necessary. However, that authority cannot be exercised in this proceeding, nor do we understand that the Commission may give permission, in any case to maintain a structure, which will protect the company in its maintenance, save in the cases specifically provided for in the law; therefore, the Commission does not desire to enlarge its authority in this proceeding by giving its consent to the maintenance of structures in such cases as it is not required by law to act. It is also the judgment of the Commission if that part of the petition indicates as number two above refers to a clearance perpen-

dicularly between the bottom of the coach platform steps and the top of the passenger platform, that then this particular statute does not apply as it was enacted for the purpose only of regulating lateral clearances.

Therefore, in this case an order will be entered that the same is without the jurisdiction of the Commission and the same will accordingly be dismissed.

**No. 118.—Ex parte, The Cleveland, Cincinnati, Chicago & St. Louis Railway Company.**

1. This was an application by the petitioner to be allowed to maintain certain overhead structures on its line in this State, the clearances of which are not in accordance with the laws of this State. After due consideration the application was denied.

**No. 119.—Ex parte, The Vandalia Railroad Company.**

1. This is an application by the petitioner to be allowed to maintain overhead structures which do not provide the clearance as required by the laws of this State. After due consideration the application was denied by the Commission.

**No. 120.—Ex parte, Chas. L. Henry, Receiver, Indianapolis & Cincinnati Traction Company.**

1. This was an application by the petitioner for an extension of time within which to file tariff schedules as required by law. After consideration the Commission granted an extension until after July 1, 1907, and on June 28th, upon a further application, the time was further extended until August 1, 1907.

**No. 121.—Town of North Salem v. The Cincinnati, Hamilton & Dayton Railway.**

1. This was an application by the petitioner to require the respondent to construct a depot at North Salem, in Hendricks County. Upon the complaint being presented to the company it was learned that orders had already been issued for the construction of the depot.

2. After the respondent commenced the construction of this depot the town authorities and citizens remonstrated against the location of the depot, and Commissioner Wood was directed to visit the town and examine into the situation. The parties appeared and the following arrangement was agreed upon:

(a) That the location of the depot should be changed to the point agreed upon between the parties.

(b) That in consideration of the change the town of North Salem agreed to sustain the expense of certain grading necessary to be done on account of relocation.

(c) In consideration of the change of location the town of North Salem agreed to maintain a light at night at the time when trains stopped at the station, to be located so as to light the street crossing and the depot platform.

**No. 122.—Ex parte, Cleveland, Cincinnati, Chicago & St. Louis Railway Company.**

1. This is an application for the approval of an agreement of signals on the petitioner's line at Moorefield, Indiana. The plans were submitted to the Commission's engineer, and upon his report being filed the same were approved and the plant is now in the course of construction.

**No. 123.—Ex parte, The Cleveland, Cincinnati, Chicago & St. Louis Railway Company.**

1. This is an application by the petitioner for a re-arrangement of the interlocking plant at Shelbyville, Indiana. The proposed plans were referred to the Commission's engineer, and upon his report being filed the same were approved and subsequently the Commission's engineer examined the construction and operation of the plant, and upon his report coming in the same was approved and the company authorized to operate this crossing without stopping after October 28, 1907.

**No. 124.—Ex parte, The Cleveland, Cincinnati, Chicago & St. Louis Railway Company.**

1. Application by the petitioner for rearrangement of the interlocking plant at the crossing of its line with the Vandalia Railroad at Colfax, Indiana. Upon the approval of the Commission's engineer plans for the same were approved, and upon report of his subsequent inspection of the construction and operation of the plant the same was approved and the companies authorized to operate the crossing without stopping after July 9, 1907.

**No. 125.—Ex parte, Evansville & Terre Haute Railroad Company, Long and Short Haul Petition.**

1. This was an application by the petitioner to be allowed to charge less for hauling grain from points on its line to Evansville

and Terre Haute, Indiana, that it charges for hauling like grain from like points to places intermediate between Evansville and Terre Haute, Indiana. The milling interests of Vincennes, Indiana, filed a vigorous remonstrance with the Commission against this petition, and upon the same being presented to the petitioner the petition was withdrawn and dismissed.

**No. 126.—In the Matter of Protecting Street Crossings at Roachdale, Indiana.**

1. This was an order entered by the Commission after an agreement between town authorities of Roachdale, Indiana, and the C., H. & D. and Monon Railroads providing for the protection of street crossings in that village by the installation of electric gongs to be controlled from a tower and operated through aerial circuits. This action was taken by the Commission after it had set aside an ordinance adopted by the town establishing watchmen.

2. Subsequent to the entry of this order, the railroad companies were not able to agree as to the manner in which the costs of installation and operation should be divided between them, and the Commission being without authority to enforce its order, the same having been made by agreement, the same was on October 30, 1907, set aside by the Commission, leaving the town authorities free to order such protection as it might determine to be just and proper.

**No. 127.—Ex parte, The Peru Canning Company.**

1. This was an application by the petitioner to be allowed to continue the use of the line shaft between its engine room and factory and over the track of the Lake Erie & Western Railroad Company in the City of Peru, the same not providing the clearance provided by law. It appearing to the Commission that the removal of such shaft at the time the petition was presented would result in serious interference with the company's business for the current season, an order was entered permitting the company to maintain this shaft until November 1, 1907, on the condition that the same should be properly protected with bridge alarms, and on the further condition that the dangerous character of the shaft should be bulletined in the yard offices of the Lake Erie & Western and Wabash Railroads at Peru, Indiana.

**No. 128.—Ex parte, The Pittsburgh, Cincinnati, Chicago & St. Louis Railway Company.**

1. This was an application by the petitioner to be relieved of the duty enjoined by law of making physical connection between



its railroad and the railroad of the Chicago, Cincinnati & Louisville Railway Company at Richmond, Indiana. The cause was heard at Richmond, Indiana, the petitioner and the C., C. & L. Railway Company being represented by its operating officers and counsel, and the business interests of Richmond being represented by the Commercial Club of that city.

2. After hearing the evidence and argument of counsel, and considering the briefs filed, the Commission entered an order denying the petition. Subsequent proceedings with reference to this matter will be found in No. 168 in this report.

**No. 129.—Railroad Commission of Indiana v. The Central Indiana Railway Company.**

1. In this proceeding the Commission on June 14, 1907, entered an order requiring the respondent to elevate the overhead highway bridge across its tracks at Uncas in Parke County, Indiana, the same not providing the necessary clearance as required by the laws of the State.

2. On September 5th the president of the company filed notice with the Commission that its order had been complied with and the bridge elevated as required.

**No. 130.—Ex parte, The Toledo, St. Louis & Western Railway Company.**

1. This was an application by the petitioner to be allowed to maintain the steel railway bridge over the Wabash River at Silverwood, Indiana, with a clearance of 20 feet 5 11-16 inches above the top of its rails.

2. On June 19th the prayer of the petition was granted, and subsequently, on September 23d, the action of the Commission was re-considered, its former order set aside and the prayer of the petition denied.

**No. 131.—Ex parte, The Pittsburgh, Ft. Wayne & Chicago Railway Company, and the Michigan Central Railway Company.**

1. This was an application by the petitioners for the approval of an interlocking plant at the crossing of their lines at Liverpool, Indiana. Upon the Commission's engineer filing a report thereon the plans were approved, and upon the filing of a subsequent report of an inspection of the construction and operation of the plant the same was approved and authority issued for the companies to operate the crossing without stopping after October 1, 1907.

**No. 132.—Inquiry Concerning Rates on and Classification of Logs, and Matters Connected Therewith.**

- S. D. Miller, Esq., Solicitor for Baltimore & Ohio R. R. Co.  
 C. K. Tharp, Esq., Solicitor, and W. C. McLaughlin, D. F. A., for Baltimore & Ohio S. W. R. R. Co.  
 Jas. E. Kepperly, Solicitor; V. D. Fort, D. F. A., and J. B. Convery, Commercial Agent, for Illinois Central R. R. Co. and Indianapolis Southern R. R. Co.  
 W. V. Stuart, Esq., Solicitor for Wabash Railroad Company.  
 John D. Welman, Solicitor, and C. D. Morris, General Freight Department, for Southern Railway Company.  
 Walter Olds, Solicitor, and A. E. Billings, D. F. A., for Lake Shore and Michigan Southern Railway Company.  
 H. C. Covenich, General Freight Department, for Louisville & Nashville R. R. Co.  
 D. H. Hillman, G. F. A., and E. Taylor, General Counsel, for Evansville & Terre Haute R. R. and Evansville & Indianapolis R. R. Co.  
 F. C. Reilly, G. F. A., for Chicago & Eastern Illinois R. R. Co.  
 A. B. Starr, General Superintendent Freight Transportation.; S. O. Pickens, Solicitor, and J. B. Hill, G. F. A., for Pennsylvania Company, and P., C., C. & St. L. Ry. Co.  
 Mr. Simmonds, Commercial Agent, for Cincinnati, Hamilton & Dayton Railway Company.  
 E. M. Davis, General Freight Department, for Toledo, St. Louis & W. R. R. Co.  
 Walter Olds, Solicitor, and James Webster, G. F. A., for New York, Chicago & St. Louis Railroad Company.  
 S. O. Pickens, Solicitor; Wm. Thorn, Commercial Agent, and A. D. Pendleton, D. F. A., for Vandalia Railroad Company.  
 Frank L. Littleton, Solicitor, and Ford Woods, A. G. F. A., for C., C., C. & St. L. Ry. Co., Dayton & Union R. R. Co., and Chicago, Ind. & So. R. R. Co.  
 U. C. Stover, Solicitor, and W. S. Parkhurst, G. F. A., for Central Indiana Railway Co.  
 S. O. Pickens, Solicitor, for Chicago, Indiana & Eastern Railroad Company.

The following were served with notice but were not represented at the hearing:

Southern Indiana Railway Company.  
 Chicago & Erie Railroad Company.

Grand Rapids & Indiana Railway Company.  
 Chicago, Indianapolis & Louisville Railway Company.  
 Grand Trunk Western Railway Company.  
 Lake Erie & Western Railway Company.

McAdams, Commissioner—Upon the informal complaint of numerous mill owners throughout the State, the Commission made a preliminary inquiry concerning log rates and matters connected therewith, and upon information so obtained instituted an inquiry as above entitled, which was held in July of this year. The subjects of inquiry which were considered by the Commission are as follows:

1. Are the carload rates upon logs between points in this State unreasonable and excessive, and, if so, to what extent?
2. Is the classification and rates as applied to different kinds of logs in carloads between points in this State improper or discriminatory, and, if so, in what particulars?
3. Should shippers of logs in carloads, between points in this State, be charged with the weight of or be required to furnish the standards used in loading, or be required to furnish other appliances for loading?
4. Are the milling in transit privileges and regulation as now practiced by such carriers, in the movement of logs in this State, just, fair and equitable, and, if not, in what way should the same be modified or altered?
5. Any other question collateral to, connected with or essential to a proper understanding or adjustment of the preceding subjects of investigation.

The inquiry was instituted in accordance with the provisions of paragraph A of Section 7 of the act approved March 9, 1907. (Acts of 1907, p. 470.)

All of the principal carriers of the State appeared by counsel or by one or more of their traffic officials.

After hearing a great amount of testimony from the mill men and from commercial and freight agents and traffic managers, representing the carriers, and after careful consideration, the Commission has arrived at the following conclusions concerning the several subjects of inquiry.

It developed at the hearing that some of the carriers apply different rates to different kinds of logs; i. e., cherry and walnut logs were excepted from the operation of the favored log rates and were carried at a higher rate. Upon consideration, it was admitted that

this classification was not just and should be discontinued. Therefore, an order will be entered forbidding its practice for the future.

It developed at the hearing that the shipper is compelled to furnish the standards when necessary to properly secure the logs on the car, and that the shipper was charged with the weight of the standards so furnished, and was compelled to pay the freight on the same. After consideration, it was admitted that the practice of charging the shipper with the weight of the standards was not just, and that on each carload of logs a credit of five hundred pounds should be allowed on account of the standards. Therefore, an order will be entered requiring the observance of such regulation in the future.

It also developed that the rules of the carriers require the shipper to furnish the wire and securely wire the logs on the car, and that the carriers refused cars not so protected. After consideration, the carriers declined to modify this regulation. In the judgment of the Commission, this is a reasonable regulation on the part of the carriers, looking to the safety of their property and the security of the property and lives of the public. This Commission, as presently organized, will not interfere with any reasonable regulations of the carriers which have in view the security of its employes, the public and the property carried; on the contrary, the Commission is daily insisting upon greater care and more stringent regulations looking to security and safety in the operation of railroads. There was no serious dispute upon the hearing that this is a necessary regulation to reasonably secure the freight carried. The contention of the mill men is that the carrier should provide the wire and secure the lading. If it were practical to devise a car, or the equipment for a car, so that there would be present at all times and at all places where the loading takes place a car having all the necessary paraphernalia required to properly secure the numerous commodities daily offered for transportation on the line of a modern railroad, then, possibly, the Commission could require what the mill men here contend for. However, at this time, when a car is used for one kind of traffic today, and for a totally different kind tomorrow, and so on indefinitely, we do not think it practical for the carriers to so equip their cars as to secure all kinds of lading. When the carrier furnishes a car suitable for receiving and moving the carload traffic for which it is furnished, we think that all such temporary means and appliances as may be necessary to properly pack or secure the lading so as to make it safe for transportation, and which cease to be necessary or valuable when the transportation is

ended, should be supplied by the shipper. It would be wholly impracticable to hold otherwise. If we could compel the carrier to furnish the wire and wire the logs, we could compel them to furnish the stakes, and upon like principle they should furnish and place the blocking to hold and protect machinery offered for shipment, and the necessary burlap and other appliances to protect household goods and other freight. Therefore, for these and other reasons which might be given, we conclude to make no order disturbing the carriers' regulations in this regard.

The first and fourth subjects of inquiry, as above indicated, involve a consideration of the rates on logs and the practices of the carriers in relation thereto, and will be considered together.

It appears from the record that the rates on logs, in carloads, for local shipments, as applied between points in this State, conform substantially to the Central Freight Association log scale, with the exceptions hereafter noted. That scale is as follows:

#### C. F. A. LOG SCALE.

##### RATES IN CENTS PER HUNDRED POUNDS.

10 miles and under.....	2.5
20 miles and over 10.....	3.0
40 miles and over 20.....	3.5
50 miles and over 40.....	4.0
65 miles and over 50.....	4.5
80 miles and over 65.....	5.0
100 miles and over 80.....	5.5
125 miles and over 100.....	6.0
150 miles and over 125.....	6.5
175 miles and over 150.....	7.0
200 miles and over 175.....	7.5
250 miles and over 200.....	8.0
300 miles and over 250.....	9.0

In many instances the rates now in effect are lower than this scale, and in other cases, logs are carried at the sixth class rate under a so-called milling in transit arrangement, whereby the delivering line is to receive the manufactured product for shipment and adjust the inbound rate to the C. F. A. scale after the outbound product has been received; the adjustment to be upon a basis of three tons inbound for one ton outbound, and in some instances at other ratios, depending upon the character of the manufactured product and the loss of tonnage in manufacture. The C. F. A. log scale and the other log rates mentioned which are less than this scale and the so-called milling in transit rates are

only applied to local shipments of logs. When the logs leave the producing line and are moved by two or more connecting lines to a point off the producing line, the traffic is carried at the current lumber or sixth class rates. There may be some few exceptions to this statement of conditions, and its complete verification can be determined only by an inspection of each rate in force, and for that we do not have at our disposal the necessary time.

There is no substantial complaint by the mill men, nor is there anything in the record clearly showing that the C. F. A. log scale, or the special log rates in effect when applied to local shipments are unjust, unreasonable or excessive. These rates have been in effect for considerable time, and pending their operation the traffic has moved to such an extent that the source of forest products in this State has been greatly depleted. The business of the mill men has prospered, the price of logs has greatly advanced, and the price of manufactured forest products has advanced with leaps and bounds, while there has been no corresponding increase in log rates to occasion the advance. On the contrary, since the prevailing rates for local shipments have been effective, the cost of transportation has materially increased—the wages of employees, the cost of new equipment, the cost of material for repairs and renewals and the cost of materials for maintenance of way and structures have all advanced. This traffic does not now move in the volume in which it formerly did, and it will continually grow less, and the value of the freight conditions remaining unchanged, will probably continue to increase. These reasons and other conclusions, to be stated, at which we have arrived in this hearing, impel the decision, as advised upon the present record, that there should be no order made affecting the present local C. F. A. log scale rates or special local commodity log rates which are less than the C. F. A. scale.

One of the principal questions arising upon the inquiry is, what should be ordered concerning the practice of some of the carriers in relation to these differential rates being applied to log shipments only on condition that the delivering line receives the outbound product. Some of the principal lines of the State do not apply this principle; other lines, quite as important, do apply it; still others have applied it, but manifested at the hearing a disposition and willingness to abandon it; yet others applied it and insisted upon the propriety and necessity of continuing to do so, and other lines served with notice and not appearing applied the principle, and as to their present purposes we are not advised ex-

cept by their published tariffs. The carriers practicing this principle claim it to be the only justification for the favored rates on logs; that without being assured of the outbound product, the rate on the inbound logs should be, and is, the lumber rate. Many of the principal lines have never applied it, and now extend the favored log rate in the first instance. It appears from the record that an observance of the conditions necessary to comply with this system of rate application and accounting results in many inconveniences to the shipper and carrier, and places an unjust and unfair limitation upon the shipper's liberty of action, and unduly circumscribes his markets and shipping facilities. The shipper is compelled to pay the sixth class rate on the inbound logs and suffer the carrier to have the use of his excess payments until the manufactured product is shipped out and the settlement made, which covers a period of several months, and in the aggregate over the State this sum is considerable in amount. This application of the tariffs, if the mill owner secures its advantages, compels the location of markets which can be reached by the particular line delivering the logs, thus circumscribing the market for the manufactured product. This frequently results in the failure of the mill owner to secure his credits, he being compelled to seek a market reached by other lines. It also frequently happens that the line bringing in the logs can not furnish the equipment for outbound shipments when demanded, while at the same time a competing line can furnish it. Sometimes markets reached by one line are more favorable than those reached by the delivering line; yet to get the benefit of the rate adjustment, the mill owner must forego the favorable market and seek one reached by the delivering line. These conditions frequently compel the mill men to disregard the advantages given by this rate adjustment, and result in their paying the sixth class rate on logs. The most striking proof of the injustice of this practice is the fact that but few of the whole number of lines practice it. After full consideration the Commission is of the opinion that the practice should be forbidden in the future, and that logs should be carried on the C. F. A. log scale. We are of the opinion that such rates are reasonable and fair, and should be applied in the first instance, as they are now by a great number of the carriers.

The mill men insist that the same scale of log rates should be applied to interline shipments that are applied to shipments of logs moving locally, and in this contention the Commission concurs, with modifications for short distances. No other logical conclusion

can follow our holding upon the question last being considered. If the carrier should not move the logs upon the favored rate on the condition that it receives the outbound shipment when applied to the single line, then the contention of the carriers that sixth class rates must apply to a movement over a connecting line for the purpose of protecting the industries on the producing line must fail. We do not hold that a carrier may not make favored rates for an industry on its line. What we do hold is that the C. F. A. log scale is a reasonable one, and should be applied with modifications to log shipments off as well as on the line. If the carrier desires to give a more favored rate to the industries on its line, the Commission's order will not prevent it doing so. The sixth class rate when applied locally or to interline shipments of logs is by the Commission deemed to be excessive and unreasonable. We believe the nature of the traffic and the conditions under which it moves justifies such an application of the C. F. A. log scale rates. We know of no class of traffic which, under the law or the rules of the Interstate Commerce Commission, can be held to be entitled under like conditions to a more favored rate when moving locally than when moving to a foreign line, excepting for short distances. The law extends only to the limit of prescribing reasonable rates in each instance. What the carrier can voluntarily do to protect its own interest is a different question. No court, in our judgment, will ever hold that a common carrier in this State may enforce rates on its line which will deprive the producer of freight on its line of the benefit, at reasonable and compensatory rates, of all markets available upon that line or its connections. Some of the justifications for the State's franchise to a common carrier are the prospect of service, better facilities for moving persons and property, a wider field of activity and a more extensive and rapid interchange of the commerce of the State. A system of rates which in any harmful degree limits the markets of a shipper to the single line on which the freight originates or hampers the free movement of freight off that line is a violation of the laws of this State. As the law now is, the carrier is under the same obligation to move traffic at reasonable rates destined off the line of its railroad as to move it to points destined on its line, and that principle is generally observed. The practice, however, with reference to logs, as we have seen, is radically different. In the classified traffic we have found the carriers moving the same on interline shipments at rates which do not exceed the local rates of either of the companies for a comparative distance. There are some exceptions to this in cases



where the local tariffs of the connecting lines are not issued upon the same basis, or where the distance is extremely short, but in cases where the connecting lines apply the C. F. A. scale in principle, the rates for the interline shipments do not exceed the local rate of either line for a like distance, save in cases of short mileage. If this can be done when the carrier has to handle the package freight at the junction point, which is a burden that does not attach to log movements in carloads, then we believe that logs may justly be moved upon rates having a like application. The practice is continually followed with respect to coal, and it may be said that in our first rate hearing, it was contended that coal for manufacturing purposes should be moved at a less rate on account of the outbound product, and this contention was advanced in the case where but one of the many producing lines entered the field where consumption takes place and the other producing lines received the outbound product only through its connections. The principle there contended for would apply here. (Annual Report, 1906, page 157.)

At the hearing much was said concerning the minimum carload weight of logs. We have considered this, and concluded for the present, at least, to approved the minimum of 34,000 pounds established by the Official Classification Committee, effective September 1, 1907.

In framing the order to be issued in this proceeding we have endeavored to so word it as to cause the minimum of labor and expense to the carriers in revising their tariffs, and we will retain jurisdiction of the cause for the next thirty days, in which time any carrier may file its application for such modification of the order, if any, as may be necessary to enable it to revise its tariffs to conform thereto and to make a showing, if desired, why the carload minimum established by the order should be modified as to such line.

#### **ORDER.**

This inquiry having been heard on the 23d and 24th days of July, last, and taken under advisement, and the Commission now being fully advised in the premises, finds and orders as follows:

That the following named carriers were either served with notice thereof or appeared at the hearing:

Baltimore & Ohio R. R. Co.

Baltimore & Ohio Southwestern R. R. Co.

Illinois Central R. R. Co.  
 Indianapolis Southern R. R. Co.  
 Wabash Railroad Company.  
 Southern Railway Company.  
 Lake Shore & Michigan Southern Railway Co.  
 Louisville & Nashville R. R. Co.  
 Evansville & Terre Haute R. R. Co.  
 Evansville & Indianapolis R. R. Co.  
 Chicago & Eastern Illinois R. R. Co.  
 Pennsylvania Co.  
 Pittsburgh, Fort Wayne & Chicago R. R. Co.  
 Pittsburgh, Cincinnati, Chicago & St. Louis Ry. Co.  
 Cincinnati, Hamilton & Dayton Railway Co.  
 Toledo, St. Louis & Western R. R. Co.  
 New York, Chicago & St. Louis R. R. Co.  
 Vandalia Railroad Company.  
 Cleveland, Cincinnati, Chicago & St. Louis Railway Co.  
 Dayton & Union Railroad Co.  
 Chicago, Indiana & Southern R. R. Co.  
 Central Indiana Railway Company.  
 Chicago, Indiana & Eastern Railway Co.  
 Southern Indiana Railway Co.  
 Chicago & Erie Railroad Co.  
 Grand Rapids & Indiana Ry. Co.  
 Chicago, Indianapolis & Louisville Ry. Co.  
 Grand Trunk Western Ry. Co.  
 Lake Erie & Western Railroad Co.

That the following named carriers doing business in this State were not served with notice of the hearing and did not appear therein :

Michigan Central R. R. Co.  
 Cincinnati, Bluffton & Chicago R. R. Co.  
 Pere Marquette Railroad Co.  
 Elgin, Joliet & Eastern Ry. Co.  
 Chicago, Lake Shore & Eastern Ry. Co.  
 Louisville, New Albany & Corydon Ry. Co.  
 New Jersey, Indiana & Illinois R. R. Co.

That the practice of some of the carriers in excepting certain kinds of logs from the operation of their most favored log rates is unjust and discriminatory and should be forbidden.

That the practice of the carriers in charging the consignor with the weight and freight on the standards necessary to secure carload shipments of logs is unjust and excessive, and that the consignor should be allowed a credit of 500 pounds on the weight of each carload of logs on account of the standards furnished.

That the consignor should be required to furnish the wire and securely wire the carload shipments of logs as required by the regulations of the Master Car Builders' Association as practiced by the carriers.

That the rates charged by the carriers for the movement of logs in carloads in the local traffic on their respective lines which are in excess of the Central Freight Association log scale are unjust and excessive.

That the practice of such carriers as move logs to mills for manufacture upon one published rate, with the condition that such rate is to be adjusted to a lower basis upon the carrier receiving the outbound product upon the basis of loss in tonnage in manufacture is unjust and unreasonable and should be forbidden; also that the practice of such of the carriers as publish log rates to mills for manufacturing purposes on the condition that the carrier receive the outbound product is unjust and unreasonable, and should be forbidden.

That the rates charged by the carriers for the movement of logs in carloads upon joint rates in which two or more carriers participate are unreasonable and excessive and should not exceed the Central Freight Association log scale, plus 10 per centum to be added thereto when the total distance for the joint haul does not exceed 50 miles.

That the minimum carload weight for logs should not exceed 34,000 pounds, as prescribed by the official Classification, effective September 1, 1907.

It is therefore ordered by the Commission, That the carriers and each of them be and they are now forbidden to except any kind of logs from the operation of any carload log tariff now effective on their respective lines, between points in this State, or from any such tariff that they or either of them may hereafter issue, and that logs of all kinds shall hereafter be carried at the same rates without discrimination as to the kind of logs carried.

It is further ordered by the Commission, That on all carload shipments of logs hereafter made between points in this State the carriers shall deduct from the weight of the lading the amount of 500 pounds, upon which freight shall not be charged, such deduc-

tion to be made, however, only in cases where the consignor has furnished the necessary standards required to secure the lading.

It is further ordered by the Commission, That the rules and regulations of the Master Car Builders' Association as practiced by the several carriers in this State, requiring the consignor to furnish the wire and securely wire all carload shipments of logs tendered for transportation, and the standards necessary to secure the same, be and the same are now approved by the Commission.

It is further ordered by the Commission, That the several carriers in this State, in all cases where their present rates exceed the same, shall be and they are hereby required to cease and desist from charging for the transportation of logs in carloads of the minimum weight of 34,000 pounds, between points in this State, rates in excess of the following:

**RATES IN CENTS PER HUNDRED POUNDS.**

10 miles and under.....	2.5
20 miles and over 10.....	3.0
40 miles and over 20.....	3.5
50 miles and over 40.....	4.0
65 miles and over 50.....	4.5
80 miles and over 65.....	5.0
100 miles and over 80.....	5.5
125 miles and over 100.....	6.0
150 miles and over 125.....	6.5
175 miles and over 150.....	7.0
200 miles and over 175.....	7.5
250 miles and over 200.....	8.0
300 miles and over 250.....	9.0

and it is ordered that in all cases where the carriers' present rates are in excess of such scale that each of them shall publish and put into effect on their respective lines in this State and apply the same to the transportation of logs in carloads between points in this State rates not in excess of such scale and at a minimum carload weight of 34,000 pounds; and the Commission orders that such scale of maximum log rates so required to be published and applied be applied to the transportation of logs in carloads at such minimum carload weight between all points in this State, whether the same be located on a single line requiring a local service by one carrier, or upon two or more lines requiring a joint service by two or more connecting carriers, provided that in all cases where the service is a joint one and is performed by two or more connecting carriers and the total haul does not exceed fifty miles, the carriers may add 10

per centum to the scale of rates so required to be observed as herein ordered.

It is further ordered by the Commission, That the rates required by this order of the Commission to be published and applied to the movement of logs in carloads shall be so published and applied without any statement that the same are applied on the condition that the delivering line shall receive the manufactured product from the mill for shipment, and that all statements contained in existing log tariffs which are not required to be republished or otherwise modified by virtue of this order, carrying rates on logs on the condition that the delivering carrier is to receive the manufactured product for shipment, are now declared to be null and void, and such tariffs shall be hereafter applied regardless of such statements and conditions, without reissue, but upon billing instructions to be made effective at once, copies of all such billing instructions to be at once filed with the Commission.

It is further ordered by the Commission, That in all cases where the carriers' log tariffs now show a rate inbound on logs in excess of the scale of maximum rates fixed by this order, and also a scale of rates to which the charge will be adjusted on the delivering carrier receiving the outbound product, and the latter scale conforms to the maximum scale fixed by this order, that then such rates and tariffs need not be republished and that the traffic shall move in the first instance upon the latter scale, orders for which may be issued as a supplement to such tariffs, or by the issuance of billing instructions, copies to be filed at once with the Commission.

It is further ordered by the Commission, That for the purpose of saving expense and time in revising, issuing and filing tariffs to comply with this order of the Commission, that the carriers may cover the subject of classification of logs, credit for weight of standards and minimum carload weights by a circular or billing instruction, to be filed with the local agents at points of origin and with the Commission; and that tariffs carrying rates in accordance with this order, which are new rates, may be published without obtaining the previous consent of the Commission therefor, and may be put into effect without previous notice to the Commission.

It is further ordered by the Commission, That this order shall become effective on September 20, 1907, and that the carriers served with notice of such hearing or appearing therein shall comply with the terms and conditions of the same, as herein fixed, on or before thirty days next after September 20, 1907, and that the same shall continue in effect for two years next thereafter.

It is further ordered by the Commission, and it now determines, That the foregoing rates, rules and regulations established by it concerning the traffic and matters under investigation in such inquiry are reasonable, undiscriminative and non-prejudicial rates, rules and regulations therein, and the Commission respectfully and earnestly recommends to the carriers doing business in this State the adoption and observance of such rates, rules and regulations in the future, and in accordance with the foregoing order of the Commission.

It is further ordered by the Commission, That the secretary deliver to the superintendent of each of the carriers so appearing or served with notice of this hearing, a duly certified copy of this order and the opinion of the Commission concerning such inquiry, and that the same be delivered by registered United States mail.

It is further ordered by the Commission, That a duly certified copy of this order and the opinion of the Commission concerning this inquiry be served by registered United States mail upon the superintendent of each of such carriers named herein which were not served with notice and which did not appear at the hearing of such cause, and such carriers are hereby required to show cause, if any there be, why an order should not be entered by the Commission requiring them to observe this order and the recommendation of the Commission, and they are required to make such showing at the Commission's rooms not later than November 1, 1907.

**No. 133.—Ex parte, The Pennsylvania Company.**

1. This was an application by the petitioner to be allowed to maintain certain structures along its line in this state which do not comply with the requirements of the safety appliance law of this state. After due consideration of the petition and the inspector's report thereon, the same was denied by the Commission.

**No. 134.—Ex parte, The Wabash Railroad Company.**

1. This was an application by the petitioner to be allowed to maintain certain structures on its lines in this state which do not comply with the requirements of the safety appliance laws of this state. On October 3, 1907, the Commission granted the prayer of the petition, and subsequently, on September 23, 1907, its order was reconsidered and the prayer of the petition denied, excepting that the petitioner was given permission to maintain in their present condition coal dock sheds located on its lines at Peru, Lafayette, Fort Wayne, Ashley and North Liberty.

**No. 135.—Inquiry Concerning Rates on Road and Street Materials.**

C. S. Denny and George D. Parks, for County Commissioners' Association;  
 S. O. Pickens, for Pennsylvania Lines and Vandalia and G. R. & I. Ry.;  
 J. D. Welman, for Southern Railway;  
 Iglehart & Taylor, for E. & T. H. and E. & I. R. R.;  
 Braden Clark, for Clover Leaf Railroad;  
 Carl Wood, for Southern Indiana;  
 C. A. DeBruler, for L. & N. R. R.;  
 U. C. Stover, for Central Indiana;  
 E. C. Field, for Monon Railroad.

By the Commission.—The County Commissioners' Association of this State directed the Commission's attention early in June of this year to the condition of freight rates on road building materials. Acting on the information thus given, the Commission directed an inquiry to the several Board of County Commissioners of the State for the purpose of obtaining further information on the subject. Fifty-three counties responded to the inquiry. From these responses it appeared that there were 898 miles of public highways under contract for improvement; that the supply of road materials in 14 counties have been exhausted; that in 33 counties the demand for road materials by rail will continue to increase; that in 24 counties the freight rates on road materials have prevented or retarded the improvement and repair of public roads; that the public demands for road materials for improvement and repair throughout the State to be moved by rail will be over 700,000 tons annually.

Acting on this information, the Commission instituted an inquiry upon its own motion as above entitled, and the same was heard at the capital on September 25th and 26th last. The subjects of inquiry as heard by the Commission were the following:

1. Are the rates between points in this State upon materials for the construction and repair of roads and streets excessive, and if so to what extent?
2. What preferential rate, if any, should be established for the movement of materials for the repair and construction of roads and streets within the State of Indiana, as compared with rates on such materials for other purposes?
3. Any other matter collateral to or in any way connected with the prior subjects and necessary to a proper understanding and determination thereof.

The inquiry developed the fact that all the principal carriers use the Central Freight Association's gravel scale as a guide for making rates on sand, gravel and crushed stone. The rates obtaining do not all conform to this scale, but it is recognized by all the carriers as a basis upon which to proceed. Many rates conform thereto, a comparatively few exceeded and hundreds are less than the scale. This scale is as follows:

#### C. F. A. GRAVEL SCALE.

IN CENTS PER NET TON.

10 miles and under .....	\$0 40
15 miles and over 10.....	45
20 miles and over 15.....	45
25 miles and over 20.....	45
30 miles and over 25.....	50
35 miles and over 30.....	50
40 miles and over 35.....	50
45 miles and over 40.....	55
50 miles and over 45.....	55
60 miles and over 50.....	55
65 miles and over 60.....	65
70 miles and over 65.....	65
75 miles and over 70.....	65
80 miles and over 75.....	75
90 miles and over 80.....	75
100 miles and over 90.....	75
125 miles and over 100.....	85
150 miles and over 125.....	95
175 miles and over 150.....	1 05
200 miles and over 175.....	1 15
225 miles and over 200.....	1 25
250 miles and over 225.....	1 35

It was a pleasure to the Commission, and no doubt to the public, to observe the disposition generally of the traffic officials of the carriers present at the hearing on the subject of road and street improvement and repair. Without exception, the traffic officials who were heard by the Commission recognized not only the desirability but the necessity of good roads and good streets in the territory through which they operate, and stated that their several policies had always been that of encouragement. Some lines have gone to the expense of investigating the subject of road building and repair, and disseminating along their lines the information thus acquired. Some lines make very favorable rates for the purpose of encouraging development; other lines manifest a willingness to do so when called upon. It was surprising to learn that many carriers



had not been requested to facilitate road building, and along some railroads and in some counties in the State there are no improved highways.

The facts developed at the hearing, and the conclusions of the Commission upon the subject of improved roads and streets may be well expressed in the following quotations from officials of large and varied experience in the matter under inquiry:

"Every dollar invested in good roads adds five dollars to the value of the property in the locality. With good roads, the farmer takes advantage of the market; with poor roads, the market takes advantage of him."—Hon. Martin Dodge, Dept. of Agriculture.

"There is but one testimony as to good roads, and that is, every county that gets one road wants a great many more. The farmers who were at first opposed to their construction are now so ardent that we could spend millions of dollars each year in building roads."—Hon. Henry I. Budd, State Commissioner of Public Roads for New Jersey.

"If there is anything that is worth a man's energy and money it is good thoroughfares. I can imagine no condition more galling and more discouraging than that of the man who lives with his family mud-bound for six months of the year.

"Good roads make country life attractive; they keep the boys from drifting from the farm to the city; they assist the cause of education; they increase church attendance; they promote sociability and an interchange of ideas. Up-to-date roads make up-to-date citizens."—Ex-Governor Mount of Indiana.

While many of the rates in effect in this State are as low as could be expected or required, the greater number of rates are, in the judgment of the Commission, too high for the purpose of encouraging improved roads and streets and for the purpose of keeping those already constructed in proper repair. We should be proud of the position of our State on the subject of road building and repair. In this enterprise it is one of the pioneers of the Middle West, and in advancement along these lines now stands well towards the head of the list among the States of the Union, and we should do nothing to prevent further development or leave undone any reasonable thing which will aid development. After full consideration we are of the opinion that in all cases where the present effective rates are not now as low or lower than 60 per cent. of the Central Freight Association scale, for a local shipment by one line, that the rates should be reduced to that point, and that for a joint shipment over two or more lines the rates should be the same as for a local shipment for a like distance, with 20 per centum added up to distances of fifty miles.

We believe the carriers can afford to observe these rates. There is a benefit accruing to them which they all recognize. The traffic moves at a time when the equipment used in handling it would otherwise be idle. Road and street improvement usually does not begin before May or continue later than the middle of November. The traffic is handled in coal car equipment, and for the greater part of this period the coal roads have a surplus of coal cars, and non-coal roads can obtain them, for handling this traffic, at the prevailing per diem charges with more profit than to own the equipment.

A forceful argument in favor of the justness of the scale which the Commission proposes in this case is the fact that there are now in force in this State several hundred rates on road building materials which are either as low or lower than the scale proposed. An unusual condition also appears with reference to these rates now in effect, and that is that many of the lowest rates are found on the lines supposed to be in inferior physical condition and expensive to operate, while some of the highest rates obtain on lines which are supposed to operate most successfully and economically. This, however, only emphasizes what has often been observed before, namely, that there are no fixed rules by which rates have been or may be made.

We have considered the suggestion of the traffic officials that we should not adopt the maximum scale of rates throughout the State, but trust to them to do what is right when the occasion arises. We were impressed with this suggestion and appreciate their disposition to deal fairly with the problem. However, the difficulty comes from waiting until the occasion arises. We have before us a striking illustration of waiting until the traffic is ready to move. Marion County has been charged one dollar per ton for moving three cars of broken stone from its workhouse nine miles to a point for distribution on its public roads, besides two dollars per car for switching. The line making this charge moves like traffic a like distance for like purposes at other points on its line for 20 cents per ton. Public authorities charged with the improvement of roads and streets are not adepts at freight rates and have but little, if any, knowledge of how to obtain them or where or how to proceed, and the procurement of a rate where none exists, or the change of a rate already in effect, we all know is not now readily accomplished. Most street and road improvement is performed upon public contracts based upon prior estimates. Into the estimates and the contracts the prevailing maximum rate must enter. Public officials

and contractors can not with safety deal upon suppositions or the expressed good will and favorable consideration of the carrier not expressed in any written tariff. These reasons prompt us to the recommendation of a maximum scale to meet those cases when the rates exceed it. We do not want to be understood that the suggested scale shall furnish authority or permission to the carriers now having lower rates to move up to the scale proposed. On the contrary, we think such rates should remain as they are, and we shall be watchful of results under the scale proposed, if the carriers comply with it, to the end that we may be advised if the scale proposed can not be further reduced to the minimum rates carried by a great number of the lines. The public benefit to accrue from these rates justifies us in this conclusion, and we believe the carriers should be willing to co-operate with us in obtaining satisfactory results from their observance.

The use of materials for road and street improvement and repair is a public use. The expenses are sustained by the public. The enterprise is in no sense a private one. Private property is no doubt enhanced in value by road and street improvement, but it is usually assessed for its due portion of the accruing benefits. Section 22 of the Act to regulate commerce specially authorizes the performance of transportation services for the federal government, the State or municipalities, free or at reduced rates. Our Act, Section 14 paragraph (d), authorizes free passes and free transportation to certain officers and inmates of public institutions and to certain charitable societies and institutions. These laws can be sustained only on the theory and are justified solely by the fact that the advantage obtained accrues to the public generally and not to individuals; that if the customary charge had been made it would only have added to the public burden. For these reasons we conclude that it is not unjust discrimination to allow rates for a public service which are more favorable to the public at large than to an individual for a similar service for his private use. A favorable rate on materials for public road and street improvement and repair operates in favor of all in so far as it bestows a benefit, as all share equally in the result. In so far as the rates discriminate against those who are charged more for like materials for commercial use, all are effective alike, because all who make use of the commercial rate are charged the same, while each of them receives their due proportion of the benefits accruing to the public from the public service rate. We are, therefore, quite well satisfied that there is no injustice or illegality in making a more favorable rate for public

than for commercial use, and such of the carriers as have so issued their tariffs or shall hereafter so issue them are not subject to criticism on that account, provided that the commercial rates are at all times reasonable and just.

In our judgment, favorable rates of this character, when issued, should apply not only to streets and highways, but to sidewalks and curbing, and to bridges, culverts and viaducts. We also conclude that these rates for such purposes should apply to sand, gravel and crushed stone, also to stone, cinders, or other materials used as filling, backing or bottom in road or street improvement.

In entering the order in this case the Commission has endeavored to so frame the same that to comply therewith will require the issuance of but one tariff, and concurrences in joint rates will not be necessary. Non-concurrence, however, will be necessary in case any line declines to adopt the scale proposed and one or more of its connecting lines shall adopt it and file a tariff with the Commission.

### **ORDER.**

This inquiry having been heard and taken under advisement, and the Commission now being advised in the premises, finds and orders therein as follows:

That the following carriers were either notified of the hearing or appeared therein:

- The Vandalia Railroad Company.
- The Pittsburgh, Cincinnati, Chicago & St. Louis Railway Company.
- The Pennsylvania Company.
- The Chicago, Indiana & Eastern Railway Company.
- The Grand Rapids & Indiana Railway Company.
- The Evansville & Terre Haute Railroad Company.
- The Evansville & Indianapolis Railroad Company.
- The New York, Chicago & St. Louis Railroad Company.
- The Toledo, St. Louis & Western Railroad Company.
- The Southern Indiana Railway Company.
- The Louisville & Nashville Railroad Company.
- The Chicago & Erie Railroad Company.
- The Wabash Railroad Company.
- The Central Indiana Railway Company.
- The Chicago, Indianapolis & Louisville Railway Company.
- The Cleveland, Cincinnati, Chicago & St. Louis Railway Company.
- The Lake Shore & Michigan Southern Railway Company.
- The Michigan Central Railroad Company.
- The Lake Erie & Western Railroad Company.
- The Chicago, Indiana & Southern Railroad Company.
- The Cincinnati, Hamilton & Dayton Railway Company.

The Baltimore & Ohio Railroad Company.  
 The Baltimore & Ohio Southwestern Railroad Company.  
 The Southern Railway Company.  
 The Perre Marquette Railroad Company.  
 The Grand Trunk Western Railway Company.  
 The Illinois Central Railroad Company.  
 The Indianapolis Southern Railway Company.  
 The Chicago, Cincinnati & Louisville Railroad Company.

That the following carriers doing business in this State were not served with notice of the hearing and did not appear therein:

The Chicago & Eastern Illinois Railroad Company.  
 The Cincinnati, Bluffton & Chicago Railroad Company.  
 The Chicago & Wabash Valley Railroad Company.  
 The Elgin, Joliet & Eastern Railway Company.  
 The Chicago, Lake Shore & Eastern Railway Company.  
 The Louisville, New Albany & Corydon Railroad Company.

That the local rates now charged by the carriers for the transportation of materials for road and street improvements and repair, which are in excess of 60 per centum of the gravel scale of the Central Freight Association, are unreasonable and excessive to the extent which they exceed such per centum of such scale.

That the rates now charged by the carriers for a joint shipment of materials for road and street improvement and repair, in so far as they exceed 60 per centum of the gravel scale of the Central Freight Association, plus 20 per centum added to such part of such scale for distances of 50 miles or less, are excessive and unjust to the extent that the same exceeds such rates.

It is therefore ordered by the Commission, That each of said carriers be and they are now recommended, in all cases where their present rates exceed the same, to publish, put into effect and file with the Commission within thirty days after this order becomes effective rates on materials for road and street improvements and repair not in excess of the following:

<i>Distance in Miles.</i>	<i>Local Rates. Joint Rates.</i>	
10 miles and under .....	24	28.5
15 miles and over 10.....	27	32
20 miles and over 15.....	27	32
25 miles and over 20.....	27	32
30 miles and over 25.....	30	36
35 miles and over 30.....	30	36
40 miles and over 35.....	30	36
45 miles and over 40.....	33	39.5
50 miles and over 45.....	33	39.5
60 miles and over 50.....	33	39.5

<i>Distance in Miles.</i>	<i>Local Rates.</i>	<i>Joint Rates.</i>
65 miles and over 60.....	39	39.5
70 miles and over 65.....	39	39.5
75 miles and over 70.....	39	39.5
80 miles and over 75.....	45	45
90 miles and over 80.....	45	45
100 miles and over 90.....	45	45
125 miles and over 100.....	51	51
150 miles and over 125.....	57	57
175 miles and over 150.....	63	63
200 miles and over 175.....	69	69
225 miles and over 200.....	75	75
250 miles and over 225.....	81	81

Rates in cents per net ton. Minimum carload not less than 40,000 pounds.

It is further ordered, That such carriers be recommended to apply such rates in local and joint shipments of sand, gravel and crushed stone when used for road or street improvement or repair, and that the same be applied also to the movement of rough stone and cinders when used for backing, filling or bottom in the construction of roads, streets, sidewalks, bridges and viaducts.

It is further ordered by the Commission, That any tariff filed by the carriers pursuant to this recommendation shall become effective on the date fixed therein when filed without previous notice to the Commission.

It is further ordered, That concurrences as to the joint rates hereby recommended need not be filed by connecting lines. In case any connecting line does not desire to join in any rate published and filed by its connections in accordance with these recommendations of the Commission, then such line shall file with the Commission non-concurrence in any tariff so filed by its connections.

It is further ordered, That this entry shall become effective on the 25th day of October, 1907, and the carriers are requested to comply therewith within thirty days thereafter.

It is further ordered, That a certified copy of this order, under the seal of Commission, be mailed to some officer or agent of each of the carriers in this State.

It is further ordered, That each of such carriers not served with notice of such hearing and not appearing therein be required within thirty days after this order goes into effect to show cause why the same should not be made effective as to them.

**No. 136.—Ex parte, The Indianapolis, Crawfordsville & Western Traction Company.**

1. This was an application by the petitioner for an extension of time in which to file its schedule of passenger tariffs with the Commission. This being a new line just being put in operation, and the rules and practices of the Commission with reference to the filing of interurban passenger tariffs being somewhat in confusion and not well understood, an order was entered by the Commission extending to the petitioner sixty days time after July 2, 1907, with- in which to prepare and file its tariffs.

**No. 137.—D. H. Wallace and Others v. The Cleveland, Cincinnati, Chicago & St. Louis Railroad Company, and the Chicago & Eastern Illinois Railway Company.**

For the City of Veedersburg, the Mayor appeared.

For the Big Four, F. L. Littleton.

For the C. & E. I., W. J. Jackson, General Manager.

1. This was an application by the petitioners to require the respondents to furnish additional passenger station facilities at the crossing of their lines at Veedersburg, Indiana. The cause was heard at Veedersburg, where the companies and the citizens of the town were represented. The Commission did not conclude that it had authority under the circumstances to require an entirely new structure, but ordered extensive improvements to be made in present structures, and the respondents have manifested their intention to comply with the Commission's order. The facts and conclusions of the Commission in this proceeding are set forth in the following opinion by:

McAdams, Commissioner.—The petitioners are residents of the city of Veedersburg and vicinity, in this State. They charge that the respondents, whose lines of railroad cross at that place, do not provide adequate and suitable depot facilities for the dispatch of their business at that point, and that the respondents' arrangements in that regard are unsanitary. A hearing was had on the petition, conducted by a member of the Commission in that city, and the course of business and premises were given personal examination and inspection. From the hearing, it appears, without substantial dispute, that the city of Veedersburg and the adjacent towns of Sterling and Chambersburg have a population of about twenty-five hundred. The corporate lines of the towns and the city join and

are for the purposes of this proceeding substantially one. These municipalities are the center of a thickly-settled, prosperous agricultural community, extending to Covington on the west, distant seven miles; Hillsboro on the east, distant six miles; Stone Bluff on the north, distant four miles, and Kingman on the south, distant eleven miles. The city of Veedersburg is a thriving, prosperous and growing community, and has a great number of energetic citizens, and is the site of several prosperous industries, which furnish a very large tonnage to these railroads. The receipts on account of passenger and freight business at this point for the preceding two years is as follows:

	<i>C., C. &amp; St. L.</i>	<i>C. &amp; E. I.</i>	<i>Total.</i>
1905 Freight .....	\$31,130 00	\$13,016 00	\$44,146 00
1905 Passenger .....	13,080 00	7,398 00	20,478 00
1906 Freight .....	45,080 00	11,556 00	56,636 00
1906 Passenger .....	14,592 00	7,058 00	21,650 00
<hr/>			
Total .....	\$103,882 00	\$39,028 00	\$142,910 00
Average yearly receipts .....	\$71,455 00		

The city has a light and water plant, but no system of sewage. There are twelve trains each twenty-four hours arriving and departing from this station upon which passengers can travel. They are partly night service and the depot is kept open at all times. It requires four regular station employes to dispatch the companies' business at this station and the annual payroll for station help is about \$2,500.00. The passenger station facilities are used jointly by respondents. The original depot was constructed by the predecessor of the Big Four Company in the year 1871, at an expense of \$1,200. This structure consisted of a single waiting room 19 by 19 feet, and office on the north 12 by 25 feet. About twenty years ago the predecessors of the C. & E. I. R. R. Co. added an addition on the north 19 by 20 feet, at an expense of \$150.00, which it uses exclusively for freight, express and baggage purposes. In 1888 the Big Four Company added an addition on the west 18 by 40 feet, at an expense of \$325.00. This extension is used by it as a freight house, express and baggage room. In 1904 the Big Four Company laid a concrete platform from its station west to the city street at an expense of \$675.00. The C. & E. I. R. R. Co. has a brick platform in good condition along its tracks, but the date when laid and the expense are not given. The interior of the single waiting room has three benches and will not comfortably seat more than fifteen grown persons. The waiting room has one electric light, no water and is



heated by a coal stove. The station platforms and walks to adjacent streets are not lighted. The only closets are located across the tracks and over the wires and appliances of the interlocking machine, and consists of a pit and cabin which was being emptied when inspected. It is wholly unsuitable in style and location for a station of this importance.

The respondents own station grounds which are ample on which to reconstruct or enlarge the station facilities. The facilities thus briefly described are entirely inadequate and are not suitable, sanitary or lawful. The property on hand is probably too valuable to require an entire new structure, but the income at this station and the general air of neglect as to these facilities call loudly for added improvements. At a conference with the officials having the inquiry in charge, had subsequent to the hearing, it was agreed that certain improvements and additions should be made in substantial accord with the order which will accordingly be entered in this cause.

**No. 138.—Ex parte, The Hoosier Manufacturing Company.**

1. This is an application by the petitioner to be allowed to maintain certain overhead bridge over the line of the Lake Erie & Western Railroad serving its industry in the city of New Castle, Indiana. An order was originally entered granting permission to maintain the same, but on subsequent consideration the Commission set aside its order for the reasons that it was without jurisdiction in the particular case to authorize the maintenance of the structure.

**No. 139.—Ex parte, Wm. Suckow.**

1. This was an application by the petitioner to be allowed to maintain an overhead structure over his switch track on the Big Four Railroad at Franklin, Indiana. The Commission originally granted the application, but upon subsequent consideration determined that it was without jurisdiction to authorize the maintenance of the structure in the particular case and the petition was accordingly dismissed.

**No. 140.—Ex parte, The New York, Chicago & St. Louis Railroad Company.**

1. This was an application by the petitioner to maintain an overhead structure on its line two miles east of Wheeler, Indiana. After considering the report of the Inspector, the prayer of the pe-

tition was denied and the petitioner informed the Commission that the structure would be raised to the necessary clearance at the earliest possible date.

**No. 141.—Ex parte, Cleveland, Cincinnati, Chicago & St. Louis Railway Company.**

1. This was an application by the petitioner for the approval of a system of signalling for its tracks at Massachusetts avenue, in the city of Indianapolis. Plans were referred to the Commission's Chief Inspector, who visited the site of the proposed installation, and after his report being filed the plans were approved and the plant is now in course of construction.

**No. 142.—Ex parte, The Wabash Railroad Company.**

1. This was an application by the petitioner to be allowed to make certain additions to its interlocking plant at Wolcottville, Indiana. The plans were referred to the Commission's Engineer, and upon his report being filed the plans were approved, and the plant is now in the course of construction.

**No. 143.—Inquiry Concerning Rates, Practices and Discriminations of Express Companies.**

Miller, Shirley & Miller, for the Commission.

Baker & Daniels, for the Adams, American, National, United States, and Pacific Express Companies.

C. W. Stockton, for Wells-Fargo Express Company.

Carl Wood, for Southern Indiana Express Company.

C. L. Loup, V.-P., for the Southern Express Company.

1. On July 15 the following entry was made and served upon the express companies doing business in Indiana:

Whereas, Information and complaints have reached the Commission that the rates and earnings of express companies are excessive and unreasonable; that some of the companies make rates to one point and refuse to make rates to another point reached by them; that deliveries are not made uniformly as required by law, and that other practices and discriminations prejudicial to shippers are carried on; and,

Whereas, It appears that the express traffic and business throughout the State are affected, and these matters are of such general public interest as to require investigation by this Commission;

Therefore, it is now ordered by the Commission, That an inquiry, as above entitled, be and the same is now instituted by this Commission.

It is further ordered, That this inquiry and investigation shall embrace the following:

1. Are express rates between points in this State unreasonable and excessive, and if so to what extent, and how much should they be reduced by the Commission?
2. What are the contracts between express companies and railroad companies, and do these contracts constitute an unjust charge and preference of shippers by express against other patrons of the carriers?
3. What is the value of the property of the express companies used in the conduct of their business in this State?
4. Do the express companies deliver without charge throughout the corporate limits of the towns and cities of the State as required by law?
5. Is there any undue discrimination as between localities?
6. Is there any undue discrimination as between persons?

It is further ordered, That all express companies doing business in the State of Indiana be and they are hereby made parties to this proceeding.

It is further ordered, That a hearing be held at the hearing room of the Commission, Room 85, State House, Indianapolis, Indiana, on Tuesday, the 3d day of September, 1907, and to continue from day to day until disposed of, and that the Secretary cause a certified copy of this order of the Commission to be served on all said express companies twenty days before the date of such hearing.

Following the notice, the cause was reassigned for hearing on September 18, and on that day the inquiry was commenced, and the companies having failed to file their annual reports within the time fixed by law, the hearing was adjourned until such reports were filed. The reports having been filed, the hearing was resumed and continued during December 2d, 3d and 4th. The investigation has been very complete and the report is now being prepared, and when completed and briefs are filed, the cause will be taken up for consideration by the Commission.

**No. 144.—Ex parte, Vandalia Railroad Company, Long and Short Haul Petition.**

1. This is an application by the petitioner to be allowed to haul logs from Crawfordsville to Indianapolis, Indiana, via Terre Haute,

for less than it charges for hauling like freight from the points intermediate on its said railroad between Crawfordsville and Indianapolis, Indiana. Notice was given, the petition heard and an order entered granting the prayer of the petition.

**No. 145.—Town of Ellettsville, Indiana, v. The Chicago, Indianapolis & Louisville Railway Company.**

Hunt, Chairman.—The town board of Ellettsville filed a petition with the Commission alleging a lack of depot facilities at that place. The matter was assigned to the chairman for hearing, and correspondence was had with Mr. B. E. Taylor, general manager of the Monon Railroad. Mr. Taylor advised that contract would be let at once for the construction of a station at this place. A few days later the Commission was advised, by formal communication from the town board of Ellettsville, that the depot was being constructed so far out of town that it would not be of service to the citizens of Ellettsville. Whereupon a visit was made to Ellettsville by the chairman, who was of the opinion that the location selected by the railroad company was not a fit location for a depot. Later, the Chief Inspector of the Commission, Mr. Alexander Shane, visited Ellettsville, and agreed that the location selected by the railway company was not a proper one.

A telegram was then sent to Mr. W. H. McDoel, president of the Monon Railway Company, asking that work be suspended on the station at once. This was followed by a conference between Mr. Taylor, general manager of the Monon; Mr. W. A. Wallace, division engineer; Judge E. C. Field, general counsel, and the Commission. At this conference it was agreed that if a suitable location could be arranged for the depot it would be removed from the place where it was being constructed to the town of Ellettsville. It was agreed that a lot in Ellettsville, owned by one W. D. McNeely, was a proper place for the location of such depot, and the railway company offered to purchase this lot and move the depot to it if the town board of Ellettsville would contribute thereto the sum of \$200.00. This agreement was made by the town board, and the purchase made, the town board of Ellettsville turning over to the Railroad Commission a voucher for \$200.00, to be delivered to the Monon Railway Company when the depot was moved to the location agreed upon, and when the Monon Railway Company had deeded to the town of Ellettsville all that part of said lot not required for depot purposes.

On November 18th a deed for this property was sent to the Commission, and the voucher for \$200.00 was forwarded to the Monon Company. The deed was returned for correction, as it had not been acknowledged, and the voucher was also returned. On December 11th the Commission received a draft from the treasurer of the town of Ellettsville for \$200.00, to be forwarded to the Monon Company when the deed was corrected. The deed having been properly dated and acknowledged, and being then in the hands of the chairman of the Commission, was immediately forwarded to the treasurer of the town board of Ellettsville, and the matter is now closed.

**No. 146.—S. P. Jennings v. The Lake Erie & Western Railroad Company.**

Forkner & Forkner, for the petitioner.

J. B. Cockrum, for respondent.

1. This is an application by the petitioner to require the respondent to connect its line with the petitioner's industrial track at New Castle, Indiana, in accordance with paragraph (k) of section 3 of the act approved March 9, 1907. The cause was heard and briefs filed and an order entered by the Commission requiring the respondent to make connection with the petitioner's industrial switch. The respondent has instituted an action in the Superior Court of Marion County to set aside the order of the Commission, and the cause is now pending in that court. The facts and conclusions of the Commission with reference to such proceeding are set forth in the following opinion:

Wood, Commissioner.—

"Every such carrier shall, upon request and upon the payment of reasonable compensation therefor, construct a switch connection from its line to and connecting with any lateral or branch line of railroad, or any private or industrial switch, which shall be constructed adjacent to its line and property in this state, whenever such connection is reasonably practicable and can be put in with safety, and a reasonable necessity therefor exists. In case of a disagreement thereon, the Commission, upon application, shall determine the compensation for making such connection and maintaining the same." (Chapter 241, Acts 1907, section 3, subdivision (k).)

This law indicates so distinctly the duty of the Commission that it is hardly necessary to state further reasons than are contained in the statute to aid us in our conclusion and order. The intention, purpose and meaning of the act are that wherever a carrier refuses

to put in a connecting switch for a shipper, and the same is necessary for the shipper's business, and is as practicable and safe as other switches are practicable and safe, that the carrier should be required to construct the switch connection on such reasonable compensation in business and money as the Commission may determine. The legislature put it out of the power of the carrier by this act to deny, either from bad judgment, from caprice or worse motive to any shipper the ordinary and usual facilities to do business. The obligation and duty is imposed by the act on the carrier "upon request and payment of reasonable compensation" to construct the switch. Generally no appeal to the Commission is intended or expected, only that in the event of failure to agree upon compensation the Commission shall determine that.

In this case it may be necessary to secure some additional right of way in the street of the city or of abutting land owners. We have required the petitioner to do this.

As to the objection that the 2 per cent. grade is not safe, there are so many such grades in New Castle and throughout the State, it is so usual to use such switch grades where it is necessary, that we are not willing to deny this petitioner the customary facilities to do business because of a possible danger from operation in the future. At this time there are no buildings constructed that would be in danger of sparks from a locomotive; there may never be any such buildings; or electric power may supersede the use of steam before any such buildings are constructed.

As to the compensation to be paid respondent by petitioner, this question is not without difficulty. We have determined it, however, as fairly as we could, by following the general custom in such matters, and the ordinary railroad practice of requiring a refund in accordance with the amount of business furnished respondent by petitioner. The act of the legislature applies not to a new condition, but to the relations between carriers and shippers as now established by the ordinary course of business. To divide the cost of industrial switches between carriers and shippers is the general custom. The plan of the shipper paying for the switch and the carrier refunding generally \$2 a car in and out of the switch for a term of years is quite usual. The New York Central line, of which respondent is a part, proceed generally, we are informed, in this way, namely, to require the shipper to pay the cost of switch and then refund to him at the rate of \$2 per car on all cars yielding a revenue of ten dollars a car or more for two years. And this rule controls the cost of the entire switch, whether on the carrier's right of

way or on the shipper's property. In this proceeding the statute contemplates that the shipper shall bear the cost of the track on his land. In this respect it is not as liberal as was the custom of the carriers before it was enacted. And the statute further provides that the shipper shall pay reasonable compensation to the carrier for the connecting switch on the carrier's right of way. "Reasonable compensation." These are the terms we must construe. If the legislature had intended that the entire cost of the connecting switch should be paid by the shipper it seems to us other words would have been used, but "reasonable compensation" signifies, as we understand, that the compensation shall be determined by the circumstances of each case, especially the expense of constructing the switch and the benefits to be derived by both the carrier and the shipper. And we must make this construction in the light afforded by the well-known customs of business in such cases now existing. So that, in the matter before us, if the result should be as respondent claimed, that it would get a very small amount of business, then it will be required to refund a very small amount to the petitioner, and the cost of the connecting switch will be borne by petitioner. If, on the contrary, as petitioner testified, there will be considerable business for the respondent then the refund graded by the amount of business will be made to petitioner for a period of four years, and afterwards respondent will have the entire proceeds of all the business done on this switch. It will be noted that we have made the time of the refund longer than is general in some cases, because in this case petitioner pays the entire cost of the construction on his land, which is about one-half of the expense of constructing a switch from the railway of respondent to the plant of petitioner.

We feel sure, from the testimony and the facts before us, that respondent will eventually receive a large return above the cost of maintenance on any amount he may have to refund in carrying out this order. The order will be entered accordingly.

No. 147.—**S. P. Jennings, W. H. Elliott, W. S. Chambers, and Other Citizens of New Castle, v. The Pittsburg, Cincinnati, Chicago & St. Louis Railway Company, and The Lake Erie & Western Railway Company.** X

Hunt, Chairman.—On July 19, 1907, W. H. Elliott and other citizens of New Castle, Indiana; filed a petition with the Railroad Commission, asking for the construction of a new union depot at that place, and alleging that the old depot was inadequate to ac-

commodate the public; that there were no closets or modern conveniences connected therewith; that it was in a very unsanitary condition; that the business done in 1907 was more than 300 per cent. greater than it was ten years ago, and that the depot was inadequate to care for the growing demands of a thriving and prosperous city like New Castle.

This matter was assigned to the chairman, and an informal hearing was held at the city of New Castle on July 25, 1907, at which time a personal inspection was made of the depot property, and evidence heard.

After hearing the evidence consultation was held with the railroad officials and with some of the petitioners, and it was agreed that no formal order should be made for the present, but that the Commission should take the matter up and endeavor to secure an amicable adjustment thereof. The matter was taken up with Mr. R. E. McCarty, general superintendent of the Pennsylvania lines, and also was talked over informally with Mr. H. A. Boomer, general superintendent of the Lake Erie & Western Railway Company. Both of these gentlemen expressed the opinion that the matter could be arranged and that a new station would be built at New Castle.

Since the hearing there has been considerable correspondence on the subject between the chairman of the Commission and Mr. McCarty, who has at all times given assurances that he is using his best endeavors to bring the matter to a speedy and satisfactory conclusion.

On Wednesday, December 11th, Mr. McCarty visited the offices of the Commission and advised that plans for the construction of a depot at New Castle had been made and were in the hands of Division Superintendent Nettleton Neff, who had the matter under consideration in connection with the Lake Erie & Western Railway officials. Mr. McCarty said that the financial situation had delayed the matter some, but that he had not the slightest doubt but that a depot that would be satisfactory to the Commission and to the people of New Castle would be constructed at that place not later than the spring of 1908, and that an effort would be made to have the work begun during this winter.

From conferences and correspondence had with the officials of both the railroads interested, namely, the Pittsburg, Cincinnati, Chicago & St. Louis Railway Company, and the Lake Erie & Western Railway Company, I am satisfied that this station will be built soon.



No. 146.—**Thos. S. Wickwire v. The Lake Shore & Michigan Southern Railway Company, and the Wabash Railway Company.**

N. D. Doughman, for the Lake Shore.

W. B. Stuart, for the Wabash.

1. This was an application by the petitioner for additional passenger station facilities at the crossing of the respondents' lines at Steubenville, Indiana. The petition was referred to Commissioner Wood, who visited the city and made a personal examination and reported to the Commission, and an order was entered requiring the Lake Shore to increase its facilities. The company declined to observe the order of the Commission. At a subsequent conference the companies agreed to endeavor to arrive at an amicable adjustment for the maintenance of joint facilities, and such an agreement was finally arrived at and the improvements are now being made. The facts in connection with this matter appear in the following order and report by Commissioner Wood:

In this case the Commission having deemed it necessary to have an investigation made by one of its members, and having referred the matter to Hon. W. J. Wood, Commissioner, to make such investigation, and the said Commissioner, after having given notice to the respondent that he would investigate said matter Thursday, June 6, 1907, at Steubenville, and having visited and carefully examined the location and conditions at Steubenville with reference to depot facilities of respondent at said town, and respondent being represented during said investigation by W. T. Stearns, trainmaster, and the said Commissioner having reported to the Commission that the passenger and freight depot facilities at Steubenville were utterly unsuitable and insufficient, and that the transfer of passengers and baggage from the Wabash Railroad to respondent's railroad is dangerous, the report of said Commissioner is now considered by the Commission and is in all respects confirmed; and

It is ordered by the Commission, That the following report and recommendation be made to the superintendent of respondent:

To M. L. Reynolds, Supt. Lake Shore & Michigan Southern Ry. Co.:

By these presents report is made to you that on Thursday, the 6th day of June, 1907, the Railroad Commission of Indiana, by one of its members, made an examination of the depot facilities of the Lake Shore & Michigan Southern Railway at Steubenville, Indiana, and finds that the same are inadequate, unsuitable and dangerous; namely:

1st. The location of the present depot is defective in that it should be placed nearer the intersection of the Wabash Railroad with the Lake Shore & Michigan Southern Railroad.

2nd. The character and extent of the defects and omissions of the Lake Shore & Michigan Southern Railroad Company with reference to said depot at Steubenville are these:

That said depot is too small; that it is not provided with waiting rooms and ticket office; that it is not supplied with wholesome water, and that it is not in any respect equipped, furnished, heated, and lighted as a passenger depot should be.

Therefore, the Commission now formally recommends to you that you shall construct and maintain, within ninety days from this date, at a point nearer the intersection of the Wabash Railroad with the Lake Shore & Michigan Southern Railroad, in the northwest part of said crossing, a suitable and sufficient depot for the accommodation of a population of two thousand to twenty-five hundred people, said depot to substantially conform to the Wabash standard No. 2, a blue print of which is attached hereto, estimated to cost about \$1,600.00.

It is ordered, That you advise the Commission of your action in this matter.

RAILROAD COMMISSION OF INDIANA,

By UNION B. HUNT, Chairman.

W. J. Wood, Commissioner.

It is further ordered, That unless respondent shall construct and maintain said depot within the time set out above that a transcript of these proceedings shall be forwarded to the Hon. Attorney-General of the State of Indiana, with the request of the Railroad Commission that he proceed to bring suit in some court of competent jurisdiction within the State to require compliance with this order of the Commission; and

It is further ordered, That the secretary forward the report, which is made in triplicate, to M. L. Reynolds, superintendent of said company, and that he cause the report to be served on the proper officer or agent of the company by the sheriff of the proper county within this State.

To the Railroad Commission of Indiana:

I beg leave to report that I have at last succeeded in inducing the Lake Shore Railway Company and the Wabash Railroad Company to agree upon plans for the construction of a joint depot at Steubenville. This depot will be located as suggested by me, in the northwest angle of the intersection. It will include a waiting room, ticket office, and a store or baggage room, and will, I think, be adequate for the accommodation of the people at that place.

I have advised the Attorney-General that it will not be necessary to proceed further in this case.

Respectfully submitted,

W. J. Wood,  
Commissioner.

No. 149.—**Ex parte, Vandalia Railroad Company and the Chicago & Eastern Illinois Railroad Company.**

1. This was an application to install an interlocking plant at the crossing of these lines at Brazil, Indiana. Plans were referred to the Commission's Consulting Engineer, and upon his report being filed the plans were approved and the plant is now in course of construction. X

No. 150.—**Ex parte, The Toledo, St. Louis & Western Railroad Company.**

1. This was an application by the petitioner to be allowed to maintain shelter sheds over their coal docks at Frankfort, Van Buren and Cayuga, such sheds furnishing a less clearance than that required by the laws of this State. It appearing to the Commission that only coal cars are allowed to enter these docks, and the Chief Inspector having recommended the granting of the petition, an order was accordingly entered permitting the petitioner to maintain these docks in the present condition.

No. 151.—**Ex parte, The St. Joseph Valley Railway Company, and the Angola Railway & Power Company.**

1. This was an application by the St. Joseph Valley Railway Company constructing a railroad under the general railroad laws of this State to be allowed to cross the line of the Angola Railway and Power Company at grade outside the corporate limits of the town of Angola, in Steuben County. After consideration, the Commission entered an order permitting said roads to cross at grade, but reserved to itself the right to determine at some subsequent time what protection should be furnished by the companies to protect the crossings, and expressly declined to approve the contract made between such companies with reference to the protection of such crossing after the same is put in operation.

No. 152.—**Ex parte, Pittsburg, Cincinnati, Chicago & St. Louis Railway Company.**

1. This was an application by the petitioner for the approval of plans for additions to the interlocking plant at Richmond, Indiana. The same was referred to the Commission's Consulting Engineer, who visited the city, and upon his report being filed the plans were approved and the additions are now being installed.

No. 153.—**Ex parte, The Chicago & Erie Railroad Company, Grand Trunk Western Railroad Company, The Chicago, Cincinnati & Louisville Railway Company, and the Elgin, Joliet & Eastern Railroad Company.**

1. This was an application by these companies for the approval of additions to the interlocking plant at the crossing of these lines at Griffith, Indiana. The application for inspection was referred to the Commission's Consulting Engineer, and upon his report coming in the plans were disapproved and the interlocking machine ordered out of service. At a subsequent conference between the officials of the companies held at the Commission's rooms new plans were submitted and a re-examination of the plant was had by the Commission's Engineer, and upon his report being filed the plans and plant were approved and an order issued permitting the companies to operate the crossing without stopping after August 12, 1907, provided that the Elgin, Joliet & Eastern Railroad Company, having charge of such plant, should thoroughly overhaul and put the same in first-class condition within thirty days after that date.

No. 154.—**Farmland Stone Company v. The Cleveland, Cincinnati, Chicago & St. Louis Railroad Company, and the Indiana Union Traction Company.**

Marsh & Jaqua, for petitioner.

F. L. Littleton and A. L. Bales, for the Big Four.

J. A. Van Osdol, for the Indiana Union Traction Company.

1. This was an application by the petitioner to require these companies to interchange carload traffic at Winchester, Indiana, in accordance with the provisions of paragraph (j) of section 3 of the act approved March 9, 1907. The petition was heard at Winchester, Indiana, and briefs filed, the cause was determined and an order entered requiring interchange to be made as prayed for in the petition.

2. The Big Four Railroad Company has refused to comply with this order of the Commission and has instituted an action in the Superior Court of Marion County to set it aside, and the cause is now pending in such court. The facts appearing in this cause and the conclusions of the Commission thereon are set forth in the following opinion by the chairman:

Hunt, Chairman.—The petitioner, The Farmland Stone Company, complains of respondents, The Cleveland, Cincinnati, Chicago & St. Louis Railway Company, and the Indiana Union Traction

Company, and alleges that the petitioner is a corporation organized under the laws of the State of Indiana; that it owns a stone quarry of five acres near Maxville, Randolph County, Indiana, and upon said quarry grounds is a stone crusher, owned and operated by the petitioner; that said stone crusher is near the right of way of the Indiana Union Traction Company, a corporation engaged as a common carrier in transporting passengers and freight over and along its line of road; that said stone crusher is about six miles west of Winchester, Indiana, at which place there is a connecting switch between said traction line and the line of road of the Cleveland, Cincinnati, Chicago & St. Louis Railway Company, a corporation organized and doing business under the laws of Indiana as a common carrier; that the town of Farmland is a station on the last-named road, about three miles from said stone quarry and crusher, and is the nearest station on said railroad to said property; that it requires two carloads of coal per month to run said crusher; that heretofore coal has been delivered to petitioner's plant by switching cars loaded therewith, from the tracks of said Cleveland, Cincinnati, Chicago & St. Louis Railway Company at Winchester, Indiana, and delivering the same over the road of the Indiana Union Traction Company to the tracks located upon the property of said petitioner; that the respondent, The Cleveland, Cincinnati, Chicago & St. Louis Railway Company, refused to make further delivery of coal to the Indiana Union Traction Company, to be by it delivered to the petitioner, The Farmland Stone Company, and, that by such refusal, said petitioner will be put to much expense and great inconvenience in conveying said coal by wagon to said crusher. It is further alleged that the physical connection between the tracks of the Indiana Union Traction Company and the Cleveland, Cincinnati, Chicago & St. Louis Railway Company, at Winchester, Indiana, are in good condition and that the switching and transferring of loaded cars can be made as requested in this petition. To this petition the respondent, The Indiana Union Traction Company, answers: That it has not at any time refused to handle or switch to the petitioner any cars delivered to it for that purpose; that it now is, and at all times has been, ready and willing to deliver to petitioner, on fair and reasonable terms, over its track mentioned in the petition, such property or cars as may be furnished for that purpose by said Cleveland, Cincinnati, Chicago & St. Louis Railway Company, to the extent that it has the right and power to do so, and with due regard to its other duties as a common carrier. The respondent, The Cleveland, Cincinnati, Chicago & St. Louis Railway

Company, files its answer, denying every material allegation in the petition, and alleging that the petitioner is not entitled to the relief demanded, for reasons which it sets out at length; alleging also that the Railroad Commission of Indiana has no jurisdiction or authority to order and direct the respondent, The Cleveland, Cincinnati, Chicago & St. Louis Railway Company, to deliver its cars to the Indiana Union Traction Company, to be delivered by it to The Farmland Stone Company, for the reason that the act of the General Assembly of the State of Indiana, entitled an act providing for the creation of a Railroad Commission (Acts 1905, p. 83, et seq.), and the acts amendatory thereto (Acts 1907, p. 454, et seq.), assuming to create the Railroad Commission of Indiana, is unconstitutional and void; under these pleadings and pursuant to an order made by the Commission, the evidence in this case was heard at Winchester, Indiana, by the chairman of the Commission, on Saturday, the 17th day of August, 1907, and the facts proved to be substantially as alleged in the petition, and no attempt is made to controvert them by either of the respondents. It appears from the evidence that the Farmland Stone Company is a corporation operating a stone crusher about six miles west of Winchester, on the line of the Indiana Union Traction Company; that its business is manufacturing road material from stone; that it operates about eight months each year, and that during the period of operation it consumes about 40 tons of coal per month or a total of 320 tons during the operating season; that the Indiana Union Traction Company has been delivering this coal to the petitioner from its switch at Winchester, for 25 cents per ton; that it costs petitioner 50 cents per ton to have it hauled by wagon from Farmland. It was further shown that the consumption of coal would be very materially increased when the capacity of the plant was increased, which was to be done soon. It appears from the evidence that several carloads of coal were delivered by the respondent, The Cleveland, Cincinnati, Chicago & St. Louis Railway Company, to the Indiana Union Traction Company, for the delivery at the petitioner's plant; it is shown, however, that this was done with the knowledge and consent of the general officers of the Cleveland, Cincinnati, Chicago & St. Louis Railway Company, but that three of said cars were delivered with the knowledge of the agent of said company; nor does it appear further in the evidence that there had been any general interchange of freight in carload lots at this point; but it was shown that the Cleveland, Cincinnati, Chicago & St. Louis Railway Company had been delivering coal in carload lots to the Indiana Union Traction Com-

pany, over its connecting switch, for the use of said Traction Company at its power house. As to the practicability of the steam railroad delivering freight in carload lots over this switch, Mr. W. C. Sparks, superintendent of roadway of the Indiana Union Traction Company, testified that as such superintendent his duties were the maintenance of track and roadway building, and, in general, any construction work that is undertaken by his company; that he is acquainted with the physical condition of the track and connections at Winchester, Indiana, between the Cleveland, Cincinnati, Chicago & St. Louis Railway Company, and also with the connections with the Indiana Union Traction Company at the property of the Farmland Stone Company at Maxville, and that there is no doubt that coal can be delivered from the Cleveland, Cincinnati, Chicago & St. Louis Railway connection at Winchester, in carload lots, over the Indiana Union Traction Company's line, to the side track of the Farmland Stone Company; that the line of road over which the cars travel to reach said stone company's plant is level, with the exception of a small dip about two and one-half miles west of Winchester; that the main track of the Indiana Union Traction Company is laid with 70-pound rails, the power house switch with sixty-pound rails; that there is no doubt that the power is sufficient to move this traffic; that for the past sixty days they have been running cars over the Indiana Union Traction Company's track loaded with 25 to 30 yards of gravel on cars with a capacity of 80,000 pounds, and that they had no trouble in so doing; that they had taken one carload of coal with the capacity of probably forty tons, from the Cleveland, Cincinnati, Chicago & St. Louis Railroad and delivered it to the Shockney gravel pit, about four and one-half miles west of Winchester. So far as there was any evidence on the subject, it clearly shows that the interchange in carload lots between the traction company and the steam road can be made at Winchester in perfect safety, and it can likewise be hauled in safety to the stone quarry of the petitioner. The act of 1907 amending the railway commission act, which provides that steam roads shall interchange as between themselves, and interurban roads as between themselves (Acts 1907, p. 461, clause J), also provides as follows:

"Provided, That in special cases where it is practicable and the same may be accomplished without endangering the equipment, tracks or appliances of any such carrier, the Commission, upon application, may require any such steam or interurban railroad to interchange cars, carload shipments, less than carload shipments,

and passenger traffic, and for that purpose may require the construction of physical connection at junction points, and the construction of the switch and private connection as provided in this act."

It is contended by the respondent, the Cleveland, Cincinnati, Chicago & St. Louis Railway Company, that this statute cannot be made effective, for the reason that there is no interchange of traffic involved; that the statute is invalid because of indefiniteness and uncertainty; that the phrase, "in special cases where it is practicable," might to one person mean one thing, and to another another thing; that it would be a dangerous precedent because, if the cars can be taken six miles, the Commission could order them taken one hundred miles and greatly cripple and embarrass the steam railroad.

We are of the opinion that the legislature meant to say just what it did say, viz:

"That in special cases, where it is practicable, this interchange could be required between steam and interurban railroads and that it intended to place the whole matter within the discretion of the Commission, and that the Commission should judge as to the practicability of such interchange, and that it must determine what the statute means in this case, for the present at least. It might be practicable to take the cars of the steam railroad six miles, and not practicable to take them one hundred miles, and the matter must also be determined by the Commission. Both the steam and interurban railroads are common carriers under the laws of this State; they receive their charters from the State; they owe a duty to the public which must be discharged, and while not contemplating any general interchange of business between the steam and interurban railroads, the legislature, in its wisdom, foresaw that cases might arise where the public would need and demand such interchange, and evidently thought it should be given when it could be done without working hardship upon the carriers, hence, it vested the Commission with the discretion to require an interchange of business in such cases. The case now under consideration appears to be one of this character; the Commission is of the opinion that the interchange of traffic in carload lots is entirely safe and practicable between the Cleveland, Cincinnati, Chicago & St. Louis Railway Company and the Indiana Union Traction Company, at Winchester, Indiana; that coal in carload lots may be safely delivered by the Cleveland, Cincinnati, Chicago & St. Louis Railway



Company, to the Indiana Union Traction Company, over its connecting switch, and that it can be safely transported by the last-named carrier to the sidetrack of the Farmland Stone Company, and an order will be entered requiring that such interchange and delivery be made.

**No. 155.—Ex parte, Cincinnati, Hamilton & Dayton Railway Company.**

1. This was an application by the petitioner to maintain certain overhead structures on its line in this State at Montezuma, Bethany, Guion, North Salem, Liberty and New Palestine. After considering the report of the Chief Inspector, and being advised, the Commission denied the application.

**No. 156.—Ex parte, The Chicago, Indianapolis & Louisville Railway Company.**

1. This was an application by the petitioner to be allowed to maintain certain structures which do not provide clearance required by the laws of this State. After considering the Inspector's report concerning the same, the application was denied.

**No. 157.—Indianapolis Composite Brick Company v. The P., C., C. & St. L. Railway Company, The C., C., C. & St. L. Railway Company, The Pennsylvania Company, and The Vandalia Railroad Company.**

Bamberger & Feibleman, for the petitioner.

S. O. Pickens, for Pennsylvania Lines.

F. L. Littleton, for the Big Four.

1. This was a petition by the petitioner for the establishment of rates on brick from Indianapolis to various points on respondents' lines in this State. Notice was issued and served on the respondents, and pending the hearing of the cause the respondents satisfied the demands of the petitioner and the petition was dismissed.

**No. 159.—Ex parte, The Commercial Distilling Company.**

1. This was an application by the petitioner to be allowed to maintain a certain overhead structure in violation of the safety appliance law of this State. The application was originally granted, and upon subsequent consideration the Commission found itself without jurisdiction in the premises and set aside the former order and dismissed the petition.

No. 160.—**United States Cement Company v. The Southern Railway Company, Baltimore & Ohio Southwestern Railway Company.**

1. This was a petition by the petitioner for the establishment of rates on coal from mines in the Linton district via the Southern Indiana, Bedford, Indiana, and the B. & O. S. W. to the petitioner's plant at Lehman.

2. The prevailing rate at the time the petition was filed was 75 cents per ton. The cause was heard and an order entered by the Commission reducing the rate to 50 cents per ton. The companies refused to comply with the order of the Commission and the Southern Indiana published a tariff of 50 cents a ton on coal from the mines to Bedford, and the B. & O. S. W. published a switching tariff of 12 cents per ton from Bedford to the petitioner's plant.

3. The Commission instituted an action in the Lawrence Circuit Court to enjoin the companies from further disobedience of the Commission's order, and a temporary restraining order was granted by the court, and upon a subsequent hearing a temporary injunction was granted forbidding the companies to disobey the orders of the Commission. Pending litigation, the Southern Indiana republished a tariff in accordance with the Commission's order, and at this time it has not been determined whether the B. & O. S. W. will refuse to concur in such tariff. Pending the determination of this question, the action and injunction in the Lawrence Circuit Court continue pending final hearing. The facts appearing in this cause and the conclusion of the Commission thereon are set forth in the following opinion by:

Wood, Commissioner.—The petition alleges that respondents on August 12, 1907, raised the rate on coal from mines on the Southern Indiana, Linton district, to Lehman, on the B. & O. S. W. R. R., where petitioner's plant is located, from 50 cents to 75 cents per ton, and that the latter rate is unreasonable and unjust, and prays that the joint rate of 50 cents may be restored.

A. W. Shirk, president of the cement company, testified that they received their entire coal supply, seven to eight cars a day, which might be increased to ten cars a day, from Linton over respondents' lines, most of it from Latta, eight miles from Linton, and that respondent, B. & O. S. W. R. R. handled in return all their out-bound business, about 30,000 barrels of cement a month, six or seven carloads daily. He testified further that the increase

in the rate, amounting to \$30,000 annually, 10 per cent. of their capital stock, would increase the cost of manufacturing 8 to 9 per cent., and that the margin of profit at the 50-cent rate was extremely narrow; that they had their own engine to do their switching, and that they so handled their business that practically all cars were released promptly within the free time of the car service rules, some of the cars being unloaded in ten or twelve hours; that the average weight of cars was 33 tons, and that if the B. & O. S. W. R. R. received only 10 cents of the joint rate they would get more than \$3 a car for a 2 to 2½ miles haul, practically a switching service, and that the rate of 50 cents a ton had been in effect practically ever since the plant was established, until August 12, 1907, when it was raised to 75 cents a ton.

D. T. McLaughlin, district freight agent of the B. & O. S. W. R. R. Co., testified that prior to January 1, 1905, there was no through rate; that the local rate of 10 cents applied from Bedford to Lehman, a distance of 2.6 miles. In January, 1905, petitioners asked for a joint rate of 60 cents, 40 cents to the Southern Indiana and 20 cents to the B. & O. S. W., and that in December, 1905, petitioners asked, as a temporary help-out a rate of 10 cents a ton from Bedford to Lehman, and finally on further importunities from Mr. Lehman, a joint rate of 50 cents was put in, the B. & O. S. W. agreeing to receive 10 cents for its portion; that the 50 cents rate was considered as a temporary help-out, and that the reason for increasing the rate was the increase per diem charge on cars from foreign roads from 25 to 50 cents, effective July 1, 1907; that the average detention of cars at Lehman was four days. Witness asked for time to submit tabulated statement of detention, which time was granted, but such statement has not been received by the Commission, and inasmuch as per diem agreement between the railroads is general and reciprocal and is protected by prevailing car service rules and demurrage charges, it could hardly change our conclusion.

H. P. Radley, general freight agent of the Southern Indiana Railway, did not know how long joint rate had been established. He testified that an advance in the rate would be justified by the increase in expense of labor, material, and everything entering into the construction and operation of the railroad. He said his company would be willing to restore the old joint rate, but only on condition that they should receive 0.80 of any joint rate, or 40 cents of the 50-cent rate.

The evidence, given somewhat at length, for the information of

the members of the Commission who were not present at the hearing, will show that the rate of 50 cents a ton had been in force generally since the plant was established. This being granted, the inquiry is naturally persistent, why should the rate be raised? The respondents point to the increased per diem, but show no special detention of cars in this case. They testify as to the general increase in the expense of labor, material, etc., but do not these increases affect the profits of the manufacturers and miners as well as the carriers?

There is nothing to segregate this route, this transportation, from other like hauls in this State. The distance is eight miles from the Latta mines to Linton, 50 miles from Linton to Bedford, and 2.6 miles from Bedford to Lehman, a total of 60.6 miles. This is half the distance from Linton to Indianapolis, where there is a joint rate put in by one of the respondents, Southern Indiana, of 50 cents, the rate asked for here. The same respondent, Southern Indiana, makes a rate of 50 cents from Linton to Bedford, 50 miles. The other respondent, B. & O. S. W., makes a rate of 50 cents, Washington to Mitchell, 44 miles, and 50 cents, Washington to Bedford, 59 miles. It must be noted that the Lehigh Portland Cement Company is at Mitchell, and while it is in evidence that they use Eastern coal, still they have the rate of 50 cents for Indiana coal, and other things being equal, the United States Cement Company, the petitioner who probably competes with them for business, should have the same rate. The Monon Railroad, operating in this district, hauls from Victoria to Greencastle, 103 miles, for 50 cents; from Victoria to Lafayette, 128 miles, 65 cents, and from Victoria to Frankfort, 207 miles, 75 cents, the latter being the rate to which the respondents have advanced the 60-mile haul from Linton district to Lehman.

As to further joint rate comparisons, the Vandalia, P., C., C. & St. L. and the G. R. & I. have in a joint rate of 75 cents, Dugger to Winchester, 187 miles, and the Vandalia, P., C., C. & St. L. and G. R. & I. carry a rate of 95 cents, Dugger to Fort Wayne, a distance of 254 miles. The Railroad Commission rate of 50 cents, Linton district to Stinesville, a distance of 45.6 miles, affords an exact comparison with the rate we now establish.

No fair and competent traffic manager or general freight agent will make a rate without due consideration of its effect on the development of the country through which his line extends. In making rates, the Railroad Commission must take even a more comprehensive view of the conditions and prosperity of the people

of the State and their business affairs, and afford them such transportation as will move their traffic in competition with like business in other States, the only limitation being the obligation to yield a fair return to the carriers. In many lines of industry the raw material has to be transported long distances to the Indiana manufacturer. He has the compensatory advantage of coal in his own State close to his factory, transported by intrastate lines, and he cannot afford—in some cases must close shop even—if this advantage is denied him. In the first opinion of the Indiana Railroad Commission on coal rates we said: "The great problem of getting coal, their only available fuel, from one point in the State to many thousand factories located in other parts of the State, intrastate business, within the jurisdiction of the Commission, will, of course, attract the best efforts of the Commission; because it affects the upbuilding of the State." Annual Report 1906, p. 158.

Again the Commission held that proximity to coal fields, and comparative short haul, justifies a low rate. Annual Report 1906, p. 105.

And it is greatly impressive that the General Assembly of Indiana had provided that a lower rate may be made for manufacturers than for domestic consumers of coal. Chapter 231, p. 440, Acts of 1907.

The recent case of the Romona Oolitic Stone Company v. Monon and Vandalia, in manuscript, is almost exactly similar to this case. The commodity, coal; the business, manufacturing; the rate, joint; the distance, about equal—all the reasons and tables given in the well-considered opinion in that case—apply to the petition before us.

The prayer of the petition is granted and an order will be entered accordingly.

#### No. 161.—An Inquiry Concerning Class Rates.

J. G. William, James E. Kepperley and O. E. Butterfield, for the carriers.

J. Keavy, Commissioner, representing the Indianapolis Freight Bureau.

1. This proceeding was instituted by the Commission pursuant to section 7 of the amended act creating and defining the powers of the Commission. On August 15, 1907, the Commission entered the following order and caused the same to be served upon all the carriers in this State which publish class rates:

"Whereas, It is made the duty of the Railroad Commission of Indiana to supervise the rates charged for the transportation of freight between points in Indiana; and

Whereas, It appears to the Commission that the rates charged by the carriers doing business in this State upon classified freight from points in this State to Indianapolis, and from Indianapolis to points in this State, are excessive, and that such rates in many cases lack uniformity and operate to the disadvantage of localities and persons compelled to have the service; and

Whereas, Many of the carriers have represented that such class rates need revision and modification so soon as attention can be given to the subject; and

Whereas, In the judgment of the Commission, such revision should not be longer delayed; therefore,

It is ordered by the Commission, That an inquiry, as above entitled, be and the same is now instituted by the authority of this Commission.

It is further ordered, That all steam railroads doing business in this State which participate in the movement of classified freight from Indianapolis to points in this State, or from points in this State to Indianapolis, be and they are now made parties to this proceeding.

It is further ordered, That a hearing upon such inquiry be had at Room 85, State House, Indianapolis, Indiana, commencing on October 1st, 1907, at 10 o'clock a. m., and continuing thereafter on the order of the Commission, and that all such carriers as shall be parties to such proceedings shall then and there be heard, if they so desire, and that any other person or party interested in such proceeding and so desiring shall then and there be heard in person or by counsel.

It is further ordered, That such inquiry shall embrace the following:

1. Are the class rates from Indianapolis to points in this State and from points in this State to Indianapolis excessive?
2. Do such rates unjustly discriminate against persons or localities or in favor of persons and localities?
3. Do such rates need revision and modification?
4. Are such rates in all cases where the tariff is competitive now relatively fair and indiscriminative when considered in connection with rates on classified traffic from points without the State of Indiana to points within the State of Indiana, and are such

rates relatively fair and indiscriminative when compared with rates from points in Indiana to points without the State of Indiana?

5. Any other question collateral to or connected with or essential to a proper understanding and adjustment of the preceding subjects of investigation.

It is further ordered, That the Secretary cause a certified copy of this order of the Commission to be served upon all such carriers not less than twenty days before the date of such hearing."

The hearing of this cause was commenced on October 4th and continued during that day and on October 5th, and was again resumed on October 21st and 22d and will be resumed and concluded on January 14, 1908.

**No. 162.—J. C. Chambers et al. v. The Baltimore & Ohio Southwestern Railroad Company.**

L. A. Von Staden, for the petitioners.

Edw. Barton, for the respondent.

1. This is a petition complaining of the passenger service rendered by the respondent to citizens of Lexington and vicinity. The petition was assigned for hearing at the Commission's rooms, and preceding the hearing an agreement was entered into between the petitioners and the railway company whereby the railway company was to so schedule its train No. 72 northbound as to arrive at North Vernon in time to make connection with trains for Indianapolis, and that it should provide for stopping its train No. 41, southbound, at Lexington, on flag to take on passengers for Louisville, and such agreement being reported to the Commission, the cause was accordingly dismissed.

**No. 163.—The Lafayette Gravel & Concrete Company v. The Chicago, Indianapolis & Louisville Railway Company.**

1. This is a petition concerning rates on gravel from the petitioner's plant near Lafayette, Indiana, to points on the Monon Railroad. Action upon the petition has been deferred for the purpose of learning what the carriers shall do with reference to the Commission's order concerning rates on road building material, as set forth in formal proceeding No. 135 of this report.

**No. 164.—The Lafayette Gravel & Concrete Company v. The Chicago, Indianapolis & Louisville Railway Company, and the Lake Erie & Western Railway Company.**

1. This petition complained of the switching rate imposed by the Monon upon its traffic in carloads from its gravel plant to connecting lines at Lafayette. The petition also involved the question of rates on gravel from Lafayette to points in Tipton County via the Lake Erie & Western.

2. No action has been taken upon the subject of rates on gravel, the same being held in suspension awaiting the action of the carriers with reference to the Commission's order in cause No. 135.

3. The Commission entered an order with reference to the switching charge on gravel from petitioner's plant to connecting lines at Lafayette. The Monon Company refused to comply with this order of the Commission and has instituted an action in the Superior Court of Tippecanoe County to set the same aside, which action is still pending. The facts appearing in this part of the cause and the conclusions of the Commission thereon are set forth in the following opinion by:

McAdams, Commissioner.—The lines of the respondent and the Big Four and Wabash Railroad all meet and either parallel or cross at Lafayette, Indiana. The point of connection and interchange is at the western limits of the city and on the south side of the Wabash river. The petitioner has a gravel pit and concrete works on the line of the Monon, immediately south of the point where that line crosses under the Wabash Railroad. From the switch serving this pit to the junction point with the other lines mentioned is approximately two miles. The petitioner's industry is a new one, on which it has expended about ten thousand dollars in equipment, one thousand dollars of which has been paid to the Monon Railroad for constructing a switch. The petitioner had done no business, and claims that it cannot on account of the excessive local rates on the Monon Railroad and the charges for delivering to connecting lines. The Monon tariff I. R. C. No. 573, effective August 17, 1907, carries rates for delivering gravel to connecting lines at Lafayette of 40 cents per ton and a minimum of \$6 per car; if two cars are moved at the same time 30 cents per ton, or a minimum of \$9; if three or more cars are moved at one time 20 cents per ton, or a minimum of \$12.

At the usual loading, 35 tons per car, these rates will produce \$14 for one car, \$21 for two or three cars, \$28 for four cars and \$35 for five cars.



The Monon undertakes to justify its tariff for the service performed in receiving an empty car, taking it to the pit and returning it loaded to the connecting lines by a statement of various movements, aggregating twenty-five miles for each car, claiming that it must be run around several times to prevent a movement in front of the engine through the city, and that it must take cars to its yards to be weighed, and that the service must be performed by a special switching crew from its yards located on the opposite side of the city. After an examination by our inspectors and inquiry as to the usual practices in such cases, we find that it is not necessary to run around the cars as stated, nor is it necessary or customary to weigh the same in switching service such as this is. This service can be performed by the Monon local trains at but slight additional expense and loss of time. They go over the road as often as petitioner would likely need service. This is a new industry on the line, and it should be encouraged and not hampered in its development. In the switching service the Monon would furnish no equipment and would not be liable for any per diem. The almost universal charge for switching between all the roads at Lafayette is \$3 per car. In one instance only it is \$5 per car—to Purdue University. No other charge is over \$3. Many of the switches are as long or longer than this one, and in some the service is no doubt as difficult to perform. We think the service should proceed upon the basis of a switching charge, and in fixing the compensation therefor we have resolved what doubts we have in favor of the railroad company, hoping that a trial of the rates fixed will convince the company that they are liberal and that they will be further reduced voluntarily by the company to the basis prevailing at Lafayette for like service. We have concluded that the charge for a single car movement should be \$5. For two-car movement \$4 per car, and for three or more car movement, \$3 per car.

In our judgment, following the usual practice, the connecting lines which receive this traffic at Lafayette, in all cases where their revenue is \$10 or more per car, should absorb at least the usual switching charges at that point.

In this cause the petitioner also complains of the rate on gravel at Lafayette over the Lake Erie & Western to Kempton, Goldsmith and Tipton. These places are distant 40, 44 and 50 miles, respectively, from Lafayette, and the published rates are 35 cents to Goldsmith and 40 cents to Tipton, and that company expresses a willingness to make a rate of 35 cents to Kempton. In view of the fact

that the Commission now has under consideration the general subject of rates on road building materials throughout the State, and no doubt will soon enter an order concerning the same which possibly may control that part of the petition involving the rates from Lafayette to Tipton, therefore, it is not thought advisable to determine that question at this time, and accordingly no opinion is now expressed thereon and the same will be held for further consideration and action after the determination of the general inquiry above mentioned.

**No. 165.—The Lafayette Gravel & Concrete Company v. The Chicago, Indianapolis & Louisville Railway Company, and the Toledo, St. Louis & Western Railway Company.**

1. This petition concerns the rates on gravel from the petitioner's gravel plant on the line of the Monon Railroad to points on the Toledo, St. Louis & Western Railroad. Action upon the petition has been deferred awaiting the action of the carriers with reference to the Commission's order in cause No. 135 concerning rates on road building material.

**No. 166.—The Lafayette Gravel & Concrete Company v. The Chicago, Indianapolis & Louisville Railway Company, and the Vandalia Railroad Company.**

1. This petition concerns the rates on gravel from the petitioner's gravel plant on the line of the Monon Railroad to points on the Vandalia Railroad. Action upon the petition has been deferred awaiting the action of the carriers with reference to the Commission's order in cause No. 135 concerning rates on road building material.

**No. 167.—The Lafayette Gravel & Concrete Company v. The Chicago, Indianapolis & Louisville Railway Company, and the Cleveland, Cincinnati, Chicago & St. Louis Railway Company.**

1. This petition concerns the rates on gravel from the petitioner's gravel plant on the line of the Monon Railroad to points on the Cleveland, Cincinnati, Chicago & St. Louis Railway Company. Action upon the petition has been deferred awaiting the action of the carriers with reference to the Commission's order in cause No. 135 concerning rates on road building material.

No. 168.—**Commercial Club of Richmond, Indiana, v. The Chicago, Cincinnati & Louisville Railroad Company, and the Pittsburg, Cincinnati, Chicago & St. Louis Railway Company.**

Shiveley & Shiveley, for the petitioner.

Starr & Robins, for the C., C. & L.

S. O. Pickens, for the Pan Handle.

1. This was a petition by the Commercial Club of Richmond, Indiana, for an order requiring the respondents to make physical connection between their lines at the city of Richmond, Indiana, as required by paragraph L of section 3 of the act creating the Railroad Commission of Indiana as amended.

2. The cause was heard at the capitol and subsequently briefs were filed and the cause was considered and determined by the Commission, and an order made requiring these companies to make physical connection and to interchange business at that point.

3. The Pan Handle Company refused to comply with the orders of the Commission and has instituted an action in the Superior Court of Marion County, Indiana, to set the order aside, and such cause is now pending. The facts appearing in this cause and the conclusion of the Commission thereon are set forth in the following opinion by:

Wood, Commissioner.—The petition seeks to compel the respondents to make physical connection of their railroads which cross each other over grade at the city of Richmond, Indiana. The General Assembly of this State has clearly prescribed the duties of the Railroad Commission and the carriers in such proceedings. All carriers, where their railroads cross over or at grade the railroad of another carrier, shall construct and maintain proper interchange tracks so that the traffic may be conveniently interchanged between such carriers at such points, and may purchase or condemn any additional necessary lands upon which to make the physical connection. (Sec. 5153, R. S. 1901, subdiv. 6), (Acts 1907, chap 241, sec. 3, subdiv. L.) The Railroad Commission is authorized and required to enforce this act. (Ibid., sec. 17.) The Commission may release any such carriers from the operation of this provision until such time as the necessity therefor shall arise. (Ibid., sec. \*, subdiv. L.)

Under the last provision, the respondent, Pittsburg, Cincinnati, Chicago & St. Louis Railway Company, filed a petition praying re-

lief from the operation of the general affirmative requirement of physical connection at this crossing. The Commission, accompanied by its Chief Inspector, visited the locality, made a careful investigation thereof, examined witnesses, heard counsel, and after full information and consideration denied and dismissed the petition. Thereupon, it becomes much more the duty of the respondents to construct this interchange connection, but after continued negotiations; the respondent, Pittsburg, Cincinnati, Chicago & St. Louis Railway Company, declined to join with the respondent, Chicago, Cincinnati & Louisville Railroad Company, in making the connection at the point of intersection of said railroads, and proposed a different point of connection involving great expense and insuperable operating difficulties.

Wherefore, the Commercial Club of Richmond now complain to us, setting out the facts in the following petition:

To the Railroad Commission of Indiana:

Your petitioners respectfully represent that the Chicago, Cincinnati & Louisville Railroad Company is operating a railroad which passes through the city of Richmond, Wayne county, Indiana, north and south. That the Pittsburgh, Cincinnati, Chicago & St. Louis Railway Company is operating a railroad which passes through the city of Richmond east and west, and that these railroads intersect or cross each other over and under grade in the city of Richmond.

The petitioners further represent that Richmond is a city of 25,000 population, situated in a flourishing agricultural country. That there are a great many factories and industries which are engaged in business in said city, some of which are on the lines of the said Pittsburgh, Cincinnati, Chicago & St. Louis Railway, and others on the lines of said Chicago, Cincinnati & Louisville Railroad.

Petitioners further represent that a very large transportation business is done by said carriers in and out of the city, a great part of the same being transported in carload lots.

Petitioners further allege that it is entirely practical to make connection by interchange tracks and switches between said lines of railroad, and that said companies, although often requested so to do, have failed and refused to connect their lines with each other in the city of Richmond, as under the law of this state they are bound to do, and on account of their failure so to connect with each other the people of the city of Richmond are deprived of the rights given them by law to ship on either or both of said roads as the convenience and necessities of their business might require them to do.

Petitioners pray that your honorable body will make an order requiring said companies to connect their lines with each other at the point of junction in the city of Richmond, and thus to provide the people of the city with the facilities of transportation which should be afforded to them, and petitioners further pray that if said order shall be

made and said companies shall fail to comply with said order in the time mentioned in it, that your honorable body will enforce against them all the penalties and remedies provided by law for their failure to conform with the law of this state, and to obey the order of the Commission.

The Chicago, Cincinnati & Louisville Railroad Company answered that it was willing to make said connection under any reasonable terms, and especially under terms prescribed by the Railroad Commission.

The Pittsburgh, Cincinnati, Chicago & St. Louis Railway Company answered as follows:

By way of answer to the petition of the complainants in the above entitled proceeding, the Pittsburgh, Cincinnati, Chicago & St. Louis Railway Company, in its own behalf, respectfully represents that the intersection or crossing of the two railroads referred to in the position of the complainants is by means of an overhead crossing, and that crossing is located in the immediate vicinity of the yards and terminal tracks of the Pittsburgh, Cincinnati, Chicago & St. Louis Railway, in the city of Richmond, Indiana; that, owing to the deviation of one of the roads above the other at said crossing, a connection between said roads directly through one of the angles formed by said crossing is a physical impossibility; that to make such connection in the immediate vicinity of said crossing, through the terminal property of the Pittsburgh, Cincinnati, Chicago & St. Louis Railway, would result in the partial destruction of and serious interference with the operation of said company's terminal yards and tracks, in connection with the objects and purposes for which they were purchased and are now used; that there may be some method of providing for such connection between said railroads in the city of Richmond, but the selection of any suitable location would necessarily be attended with much difficulty, and the construction of it can not be accomplished without the expenditure of a large amount of money; that said Pittsburgh, Cincinnati, Chicago & St. Louis Railway Company has entered into negotiations with the Chicago, Cincinnati & Louisville Railroad Company, in good faith, with the view of co-operating with said company in the determination of a suitable location for said connection.

And said Pittsburgh, Cincinnati, Chicago & St. Louis Railway Company made additional answer further as follows:

Pittsburgh, Cincinnati, Chicago & St. Louis Railway Company, respondent in the above entitled cause, for its additional and further answer to the petition herein says:

That it is impossible to construct a connection between the tracks of the Chicago, Cincinnati & Louisville Railroad Company and the tracks of this respondent at or near the point of junction between the roads of said respondents in the city of Richmond, Indiana, as prayed for in the petition, without the surrender by this respondent for the use of such connection of land belonging to this respondent, which it acquired and is

using for its yard and terminal tracks, and which is necessary for such yard and terminal tracks to enable this respondent to perform its obligations to the public as a common carrier. That at the point of junction between the tracks of the respondents the tracks of the Chicago, Cincinnati & Louisville Railroad Company are under the grade of the tracks of this respondent and are located along and upon the bank of the White Water river; that by reason of the location of said river and the tracks of the said respondents at or near the junction of said tracks it is impossible for said respondents or either of them to acquire by power of eminent domain or otherwise additional lands upon which a track connecting said roads could be located.

That the order by this Commission requiring the construction of a connecting track between the railroads of the respondents at or near the point of their junction, as prayed for in the petition, upon the lands acquired and now owned by this respondent for the use of its yard and terminal tracks aforesaid would be a taking of this respondent's property, which was acquired for, and is already devoted to, a public use, for another and different public use, which this commission is without power to do, and which would be unlawful.

Wherefore, said respondent prays that the petition be dismissed.

"Railroads have from the very outset been regarded as public highways and the right and duty of the government to regulate in a reasonable and proper manner the conduct and business of railroad corporations has been founded on that fact. Constituting public highways of a most important character, the function of proper regulation by the government springs from the fact that in relation to all highways the duty of regulation is governmental in its nature. At the present day there is no denial of these propositions." (Wis., etc., *R. R. Co. v. Jacobson*, 179 U. S. 297.) "The only question as each case comes up for decision is whether in the particular case the power has been duly exercised. \* \* \* The reasonableness of the judgment with reference to the facts concerning each case must be a material, if not a controlling, factor upon the question of its validity." (Ibid.)

The propositions dominant in our conclusions about this matter arise from the absolute fact that these intersecting railroads are nothing less than public highways. All the uses and analogies of the old common roads point to the convenience of the public in passing from one to another at all crossings by easy connections kept always open between them. But public demand, the final directive force in this country for the continuous open connected use of the steel highways, is more imperative. Under present conditions, if moving at all, persons, and the product of farm and factory, merchandise and supplies for man and cattle, must move quickly. Comparatively, millions of tons of freight on the new

highways to hundreds of tons on the old, must be transported. As rapidly as railways have been extended, far in excess has been the increase in commodities to be carried, and the carriers can supply neither cars nor sufficient track room on their roads to move the traffic. How necessary, therefore, to connect up these lines everywhere, as the wisdom of the General Assembly has specifically provided for in this State, and so shorten the routes of transportation to all points of the compass, that passengers and freight may be taken to all destinations in as little time and space as possible, so that others clamoring for service also may be accommodated.

Railroad companies, controlled by private ownership and management, have been proceeding on a different theory. They have connected up, even at inexpensive grade crossings, only if the value of the traffic of the other line was advantageous to them. The physical connection was estimated, not by the public demand, convenience and necessity, but by reference to the figures of the traffic manager to show that it would pay. Under these conditions the legislature passed the act requiring the connection, and being remedial, to make effective the character and purpose of the highways, the construction to be given to the statute must be broad and liberal.

In applying a similar enactment of another State, the Supreme Court of the United States held that the facts of each case, construed in the light of the principle above declared, were the controlling factors of a just decision. We have before us, to be attached to our order, a blue print which demonstrates at a glance how reasonable and practical it is to make the connection in the southeast quarter of the intersection on the line designated in red on the plat. Here the crossing lines make an obtuse angle, allowing the placing of a track to be used for interchange as close as possible to the main lines, occupying a very small space inside of main line rights of way, and connecting the separated grades of these railroads with an interchange track, the grade of which will be only two and five-tenths. We think that any disinterested person who should examine the plat or locality would agree that here is the place where the interchange should be made. We feel confident from the ocular surveys made by ourselves and our Chief Inspector, a railroad man of forty years' experience, that railroad men would agree that the track or tracks used for interchange should be at this angle and point of intersection, and after full consideration we can come to no other conclusion.

One of the respondents, the Chicago, Cincinnati & Louisville

Railroad Company, has constructed here the interchange track to the property line of its right of way, and avers its willingness to go on and connect up to the track of the other respondent, paying its proper share of the expense of construction and maintenance and to engage in and perform the required interchange of traffic. The other respondent, the Pittsburg, Cincinnati, Chicago & St. Louis Railway Company, insists that it has acquired the strip of ground over which the longest portion of the track to be used for interchange will extend, for storage and switching and terminal purposes, and cannot be required to give it up for the convenience of the other carrier or the needs of the public. We are of the opinion that one, or even two, tracks at this point, to be used partly for interchange will not materially interfere with the uses to which the objecting respondent desires to put his property. So little space is required, and it is so situate in the extreme northwest corner of respondent's property, that it cannot be maintained that anything is really taken from respondent necessary for it to use solely in performing its storage and terminal business now and for long years to come in the most satisfactory manner. Indeed, it is not necessary for respondent to surrender the ownership even of the little strip of ground on which the track to be used for interchange will be constructed. Nor can it be maintained that what is done in this proceeding is to appropriate this strip of land to another use. It is to be used strictly and only for railroad purposes, for the respondent's business, to move cars to and from this very terminal, and cars going to and from points on its lines and connections, the revenue therefor in just proportion to be paid to it. We are merely enlarging its business, giving it another connection and outlet and inlet. It is the same use of the land for the same general object of the business that it is now engaged in that we require of it in making this connection. Moreover, the control and use of this very track (occasionally used for interchange) for the storage and switching purposes of respondent, can be secured to it, if it so desires, by the orders to be made by us in this case. In other words, we think that compliance with the law, and the fair solution of this controversy, is to require the connection to be made at this point, where it can certainly be made most cheaply and expeditiously, and where it will best accomplish the just demands of the public and the convenience of the interchanging carriers.

An order to this effect will be entered accordingly.



No. 169.—**Ex parte, Elgin, Joliet & Eastern Railway Company, Gary & Western Railway Company, and the Michigan Central Railway Company.**

1. This is an application by these companies for the improvement of interlocking plant at the crossing of their lines at Ivanhoe, Indiana. Several sets of plans have been presented for consideration, some of which have been rejected. Finally, on December 10th amended plans were filed and approved by the Commission as a temporary arrangement only until the grade at such crossing may be separated as now contemplated by the parties.

No. 170.—**Rebecca A. Adams and Perle B. Adams, Trading as Adams & Raymond, v. The Cleveland, Cincinnati, Chicago & St. Louis Railway Company, The Lake Erie & Western Railroad Company, The Monon Railroad Company, The Pan-Handle Company, and the Vandalia Railroad Company.** X

Chas. E. Averill, for the petitioner.

Jno. B. Cockrum, Hawkins, Smith & Hawkins, and S. O. Pickens, for the respondents.

1. This petition concerns the classification of veneers and thin cut lumber as applied to the transportation of the petitioner's product within the State of Indiana, and especially between Indianapolis and South Bend, Indiana.

2. The cause was heard at the capitol on the 18th of November, 1907, and subsequently argued orally, after which the cause was considered and determined by the Commission in the manner shown in the following opinion by:

Wood, Commissioner.—The duty and authority is imposed on this Commission by chapter 241, Acts 1907, subdivision D, to alter, change, amend or abolish any classification or rates established by the carriers, found to be unjust, unreasonable or discriminative, and to make or substitute new classification of rates therefor. The petition in this case invokes this power and prays that the Commission shall make, amend or alter the classification or rates on certain thin cut lumber.

Lumber throughout Indiana moves in carloads under the sixth class of the official classification. Veneering 1-16 of an inch or less in thickness moves on the fifth class. The contention of the petitioner is that a large part of his output, cut to the thickness of

veneering, 1-16 of an inch or less, is not really veneering, because it is not used for outside decorative purposes, but is only thin cut lumber of much less value than veneering used for backing, filling, center stock, cross-banding or other purposes not decorative, and that, therefore, it should take the ordinary lumber classification or rate, while the carriers insist on classifying this stuff as veneering, and so bringing it in a higher class and rate.

Veneering is a thin slip of wood cemented to the face of some other material to form an ornamental finish thereto (*Knights' Mechanical Dictionary*). Veneering is a thin slip of wood used as a coat or plating to give a handsome exterior finish to the articles, cabinet or other work, which are made of a ground work, or it may be of a stronger material (*Britannica Encyclopaedia*). Veneering, as we understand, is made generally, if not always, of woods of value. It is worth more and brings much more in the market than other thin cut lumber.

While veneer, just as backing, is really thin cut lumber and belongs to the lumber class, it seems to be easily distinguished from all other thin cut lumber by its usages and value. The chief uses of veneering are clearly indicated in its definition.

There would then seem to be no objection to putting veneering in the higher class and to charging for its transportation a higher rate than for other thin cut lumber; and this logical and proper difference is made in the official and western classifications; while the southern classification is more liberal and places veneering in the sixth class with other thin cut lumbers of less value. We see no reason for disturbing the official classification of veneering.

The difficulty and contention is not as to the classification, but as to its application. Veneers, it is conceded, shall go as veneering; but other thin cut lumber, not veneering at all and not to be so used, it is insisted, should take the lower classification and rate.

Lumber is sixth class, all lumber generally. If to be put in a higher class, there should be some special reason. Official classification recognizes this fundamental fact, and while preserving this equal classification of lumber generally, places some forms of the lumber, namely woods of value, veneering and backing, in the fifth class. We can comprehend why woods of value should be fifth class; it is equally clear that veneering should be fifth class, but why backing should be fifth class when (*Official Classification No. 30, page 107*) lumber not otherwise specified in any thickness should be sixth class, we cannot understand.

Backing is a thin cut piece of lumber not essentially of any spe-

cific thickness, but generally ranging from 1-16 of an inch to lesser thickness, as its use demands. It is a wood like other lumber, its atomic constituency being the same. It is used for the purpose of making built up or compound wood, box shooks, berry boxes and carriers of different kinds and for cross-banding, and in its definition, use and value is strictly differentiated from thin cut lumber used for outside decorative purposes or veneering.

Filling, center stock and cross-banding are practically the same as backing.

The lumber class embraces a great many articles, nearly all of which are in the fourth and sixth official class. For instance, while slats, spokes, bed slats and ceiling take higher class or classification, the fourth and sixth class are applied to:

Bark, spent	Kindling wood, bundles	Sewing machine wood
Barrel shooks	Lath	Shooks generally
Box shooks	Logs	Spoke timber
Cooperage stock	Lumber, general	Stave bolts
Felloes	Match blocks	Staves and heading
Felice timber, rough	Pickets	Telegraph poles
Heading bolts	Picture backing	Ties
Hoops	Piles	Vehicle stock
Hoop poles	Posts	Paving blocks, wooden
Hubs and spokes	Shingles	Gun stocks
Kindling		

This long and instructive list shows how persistent and natural is the tendency of lumber products to take the parent lumber class, and enforces the proposition that if any of these products are to be put in a higher or lower class some good reason, based on one of the primary features of classification, should be apparent. It is shown to us that the three fundamental factors of classification are: (1) Natural association of commodities, (2) Commercial conditions and necessities, (3) The inherent qualities of the article affecting its transportation. There certainly is nothing to raise the classification of backing from the lumber class so far as the first two principles are concerned. But it is claimed by respondents that the third basic feature of classification, what may be termed the transportation element, is involved, and that to divide into two classes the thin cut stuff made by this complainant, cannot be done, because both veneering and backing may be cut from the same species of wood from the same log, and are, in fact, so similar in appearance that if backing is separated from veneering in classification the fact will be that veneering, as well as backing, will go at the

lower rate, even when it is of very much greater value and should be carried on the higher rate.

After patient, careful and painstaking investigation, we cannot accede to this theory. Stated in another way, this idea is that while it is conceded that backing, filling, center stock and cross-banding are of no greater value than other thin cut lumber and lumber products which take almost universally the sixth class rate, the shipper will take advantage of the carrier and bill out his veneers as thin cut lumber or backing, if the latter product is given the rate it should properly take. Now, there is very much more thin cut lumber, backing, filling, center stock and cross-banding than veneering, and yet all this stuff, according to this theory, must pay more because a smaller quantity of kindred product is capable and liable of being confounded with it. One of the respondent's witnesses testified on this point:

"Q. Well, all thin cut stuff is classed as veneering, isn't it?

"A. Yes, sir. Veneering is veneering.

"Q. It is all veneering because it could not be classed any other way?

"A. The same as silk, or steel or iron."

But this witness was not supported by his illustration and analogy because steel is separated in official classification where found expedient to do so, by the very simple process of requiring the consignors to express the valuation of packages and products otherwise similar. (See Official Classification, page 90, No. 28.) No reason is given why a manufacturer of lumber should not be given the same privilege as a manufacturer of steel whenever in fact the natural tendency and class of a large part of his product demanded this treatment.

However, if the classification committee cannot devise a plan that will apply to thin cut lumber its proper rate because some of it looks like veneering, then the law, the supreme rule of action, may be appealed to, both by the shipper and the carrier for just classification, and for fair transportation, to supply this deficit. It is worthy of the sharp attention of all concerned how strongly this situation appealed to the Railroad Commission of Indiana, whose duty it is to apply the law equally for all alike.

After noting the statement of the Chief Inspector of the Freight Inspection Bureau that under-billing took place in the city of Indianapolis to the extent of \$200,000 annually, the Commissioner in

charge of this case at the public hearing, immediately and closely questioned the witness in this regard. The witness was asked how much of this billing was done intentionally.

"A. I don't believe I could make a reliable statement," and added that it was either done intentionally or from ignorance.

Asked if he could name any **flagrant** cases:

"A. I couldn't state positively. I don't know whether the shippers knew they were under-billing."

Advised by the Commissioner of the severe penalties applying to shippers and carriers, and extending even to imprisonment, and asked if he had ever thought of reporting any of these cases to the Commission, he admitted that it had occurred to him; but as a matter of fact he had never done so, and upon this situation the Commissioner said: "Without reference to this case here, because it has been stated by the petitioner that he had advised the carriers that his books are open to the carriers and inspectors as to all shipments, but on this subject generally, if it is fair to give the shipper the rate and classification that he wants, it is also fair to the railroad companies that the stuff should move under the classification and under the tariffs filed herewith the Commission, and the proposition we are trying to present here now is that it is the business of the Indiana Commission to enforce the laws, and this is one of them, the law against the shipper in under-billing, as much as against the railroad companies in over-billing, or taking any advantage, and I am sure my colleagues on the Commission will join me in the statement to Mr. Barr that if he reports a case of this kind to the Commission the Commission will take action."

The findings and impressions set out above indicate our conclusion. The Commission has considered the provisions of the Act of 1907, chapter 241, page 454, section 3, subdivision "A," and section 10, with reference to uniform classification throughout the State, and has construed these parts of the act with the proviso to subdivision "H," section 3, of the same act, that "any change of classification or rate should operate for the benefit of all persons situated similarly with the complaining party," and has also construed these laws with the statutory obligation of the Commission to enforce the law and its orders, and we think we have authority to make the order in this case effective.

It was testified that petitioner was the largest shipper of these products, his output being probably one-half of the entire output and shipment within the State. We shall formally advise the few other carriers and parties similarly affected of our action in this

case, in order that proper tariffs may be filed and the classification and rate made in this case may uniformly prevail. It remains only to observe that the classification we shall make will, by its terms and limitations, protect the carriers, and the order will be entered accordingly.

### ORDER.

This case having been heard by the Commission, and being fully advised, and it appearing to the Commission that the classification of thin cut lumber complained of is unreasonable and discriminative:

It is ordered, That item 39, page 27 of the Official Classification 30, so far as the same affects or governs shipments entirely within the State of Indiana, is hereby abolished, and in the place thereof the following new or amended classification shall be made, namely:

Backing, filling, center stock, cross-banding of native wood, not quartered, not figured, cut and not sawed, 1-16 of an inch or less in thickness, L. C. L., fourth class, C. L., minimum weight 34,000, sixth class.

Note. When consignor's valuation is not expressed, or when expressed, exceeding \$10 per 1,000 feet surface measurement, C. L., minimum weight 30,000 pounds, fifth class. Valuation expressed by consignor not exceeding \$10 per 1,000 feet surface measurement, C. L., minimum weight 34,000, sixth class. In all cases complete and correct description must be shown on packages and on shipping order by consignor.

It is further ordered, That the respondents, and each of them, be and they are hereby notified and required to cease and desist on or before Thursday, the 15th day of January, 1908, from using or applying on shipments entirely within the State of Indiana, the said classification so abolished and canceled by this order.

It is further ordered, That the said respondents and each of them be and are hereby required to establish, make effective and put in force on or before the 15th day of January, 1908, the said amended or new classification above set out and to use and apply said amended or new classification on all the shipments specified therein during a period of two years, next after said 15th day of January, 1908.

It is further ordered, That the secretary transmit a certified copy of this order to the superintendent of each of the respondents, by registered United States mail.

On December 31, 1907, the foregoing order was modified as follows:

In the above entitled cause it is hereby ordered, That the original order made and filed in this cause on the 27th day of December, 1907, shall be modified and changed so as to strike from the new or amended classification made by the Commission in said cause, the words "cut and not sawed."

It is further ordered, That the secretary mail to the parties hereto a certified copy of this order.

**No. 171.—Wm. B. Stone and Others v. The Chicago & Eastern Illinois Railroad Company.**

1. This was an application by the petitioners, citizens of Stone Bluff, Indiana, and vicinity, to require the respondent to construct a new passenger depot at Stone Bluff, in Fountain County.

2. The petition was heard at the Commission's rooms informally, there being present W. J. Jackson, general manager, and E. H. Seneff, general attorney for the respondent. After hearing the statements of these officials, the Commission entered an order requiring the respondent to construct a new depot at that point. This order of the Commission has subsequently been complied with.

**No. 172.—Ex parte, The Ft. Wayne, Cincinnati & Louisville Railway Company, and the Muncie Belt Railway Company.**

1. This was an application by these companies for the approval of a device to protect the crossing of these lines at Muncie, Indiana. The Commission had its inspector visit the site of the proposed protection and report upon the plans. After his report was filed the Commission had a conference with the officials of the interested lines, and after due consideration entered an order permitting these companies to run this crossing without stopping, provided the device suggested should first receive certain improvements and be kept in good condition.

**No. 173.—Ex parte, The St. Joseph Valley Railway Company, and the Lake Shore & Michigan Southern Railway Company.**

1. This was an application by the St. Joseph Valley Railway Company to be allowed to cross the line of the Lake Shore & Michigan Southern Railway Company at grade in the town of Angola, Indiana, until September 1, 1908, by which time it is proposed to

separate such grade. After due consideration the Commission entered an order granting permission for such companies to cross at such point at grade until September 1, 1908, providing that if the grade of such railways is not separated by that time that then and thereafter this order shall be null and void.

**No. 174.—Ex parte, The Chicago & Erie Railroad Company, and Vandalia Railroad Company.**

1. This was an application by these companies for the approval of an interlocking plant at the crossing of their lines at Newton, Indiana. The plans were submitted to the Commission's Consulting Engineer, and upon his report coming in the same were approved on condition that the derails in the main line of the Erie Railroad should be located 500 feet from the crossing, and the plant is now in course of construction.

**No. 175.—Ex parte, The Cleveland, Cincinnati, Chicago & St. Louis Company, and the Indianapolis Belt Railroad Company.**

1. Application by these companies for the approval of plans for interlocking plant at the crossing of their lines at West Side, Indianapolis. Plans were submitted to the Commission's Engineer, and upon his report being filed the plans were approved and the plant is now in course of construction.

**No. 176.—C. M. Fish and Others v. The Baltimore & Ohio Southwestern Railroad Company.**

1. In this case, the petitioner and others, citizens of Paris and Commiskey and vicinity, complain of the passenger train facilities furnished by the respondent. The cause was heard by a member of the Commission at North Vernon, Indiana, on October 29, 1907.

2. In the judgment of the Commission certain improvements should be made in the passenger service on this line, and the respondent was given ten days' time after December 10th, within which to devise some plan for the improvement of service. The facts appearing in this cause and the conclusions of the Commission thereon, pending action by the company, are set forth in the following opinion by:

McAdams, Commissioner.—Citizens of Paris and Commiskey have filed petitions with the Commission concerning the passenger



train service rendered by the respondent to their respective towns and communities. A hearing was had at North Vernon and subsequently negotiations have been conducted between the company and the Commission, hoping to arrive at an amicable adjustment. However, only partial success has been attained. The questions involved affect all the stations on the respondent's Louisville division, south of North Vernon and north of Charlestown. What relief complainants are entitled to would probably also be due to each of the other points upon like application. Therefore, any regulation adopted by the company or promulgated by the Commission should, in all probability, be applied to all these stations; therefore, we will so consider the petitions, as it is only just to the company that ultimate and complete and not immediate and partial results should be considered.

The distance south from North Vernon, the population and the passenger revenues of the company with reference to these towns, are as follows:

	Miles From North Vernon.	Popula- tion.	January to July Inclusive, 1907.	January to July Inclusive, 1906.	April to July Inclusive, 1907.	April to July Inclusive, 1906.
Lovett.....	6.7	150	\$191 80	\$188 89	\$100 05	\$116 40
Commiskey.....	10.3	300	468 40	560 54	239 08	313 23
Paris.....	12.5	500	686 36	598 21	402 85	372 22
Deputy.....	14.9	500	305 71	363 95	181 98	239 15
Blocher.....	20.1	250	266 45	337 79	145 55	212 59
Lexington.....	25.1	800	729 16	752 89	397 24	447 20
Nabbs.....	28.6	150	483 49	601 95	274 26	374 13
Marysville.....	30.1	150	352 15	396 02	190 10	243 39
Otisco.....	33.4	200	588 13	664 03	316 89	467 42
Charlestown.....	40.4	2,000	1,145 80	4,673 64	1,752 52	2,798 27
Total.....			\$5,217 45	\$9,135 91	\$4,000 52	\$5,584 00

This division terminates on the south at Louisville, Kentucky, distant 58 miles from North Vernon. The respondent there connects with other lines for points in the south and connects at North Vernon with its main line from St. Louis and points west and Cincinnati, and all points on the main line east to the coast. At Lovett, Blocher and Otisco the respondent has block stations and a night service is maintained at these stations. At all the other stations—namely, Commiskey, Paris, Deputy, Lexington, Nabbs, Marysville—no night service is maintained. These stations close in the evening, and passengers arriving or departing between the closing hour and opening in the morning have no station accommodations or knowledge or means of knowledge concerning the arrival or departure of trains other than the published time card.

The respondent, under contract, permits the Big Four line to run its passenger trains over this division from North Vernon to Louisville. Under the contract these trains are not allowed to do any local business, and make the run without stopping except to meet passing trains. The Big Four, under this contract, runs two passenger trains daily in each direction.

The present passenger train schedules on this division are as follows:

## B. &amp; O. S. W. LINE.

Stations.	46. Sun- day.	North.						South.					
		14.	72.	16.	18.	20.	44.	41.	15.	43.	17.	19.	
		A.M.	A.M.	A.M.	A.M.	P.M.	P.M.	P.M.	A.M.	A.M.	A.M.	P.M.	P.M.
N. Vernon.	N	3.05	4.20	S 9.00	S 9.49	S 3.35	S 7.12	11.00	8.25	S 10.20	11.02	S 4.05	S 8.02
Lovett.	N	F 2.45	F 4.05	S 8.45	9.36	3.25	7.02	F 10.45	5.35	10.30	S 11.12	4.16	8.12
Comiskey.	D	F 2.40	F 3.55	S 8.10	9.31	3.21	6.58	F 10.39	5.40	10.36	S 11.17	4.21	8.16
Paris.	D	F 2.34	3.50	S 7.50	9.27	3.18	6.55	F 10.34	5.43	10.39	S 11.21	F 4.26	8.18
Deputy.	D	F 2.30	F 3.45	S 7.40	9.24	3.16	6.53	F 10.29	5.47	10.42	S 11.25	F 4.31	8.21
Blocher.	N	F 2.20	F 3.35	S 7.20	9.16	3.09	6.47	F 10.19	5.56	10.49	S 11.34	4.40	8.28
Lexington.	D	F 2.12	F 3.26	S 7.00	9.08	3.03	6.41	F 10.10	6.04	10.55	S 11.42	F 4.49	8.34
Nabbs.	D	2.07	3.20	S 6.50	9.03	2.58	6.37	F 10.04	6.10	10.59	S 11.48	4.54	8.38
Marysville.	D	2.05	3.18	S 6.79	9.01	2.56	6.35	F 10.01	6.12	11.01	S 11.51	4.57	8.40
Otisco.	N	2.00	3.14	S 6.18	8.57	2.52	6.31	F 9.56	6.18	11.05	S 11.58	5.03	8.44
Louisville.	N	S 1.15	S 2.30	.....	S 8.10	S 2.10	S 5.45	S 9.10	S 7.10	S 11.50	S 12.55	S 5.55	S 9.30

## BIG FOUR LINE.

Stations.	North.		South.	
	34.	36.	31.	33.
	A.M.	P.M.	A.M.	P.M.
North Vernon.....N	S 9.25	S 9.40	S 5.55	S 5.00
Lovett.....N	9.15	9.26	6.05	5.10
Comiskey....D	9.10	9.22	6.10	5.10
Paris.....D	9.07	9.19	6.12	5.18
Deputy.....D	9.03	9.16	6.16	5.22
Blocher.....N	8.56	9.10	6.24	5.29
Lexington....D	8.50	9.05	6.33	5.35
Nabbs.....D	8.45	9.01	6.37	5.40
Marysville...D	8.43	8.59	6.39	5.42
Otisco.....N	8.38	8.55	6.43	5.47
Louisville....N	S 8.00	S 8.10	S 7.30	S 6.30

D, open during day. N, open day and night. S, regular stop. F, trains stop on signal to receive and discharge passengers. 72 is local freight train. 16 will stop at Lexington, Deputy and Paris to let off passengers from Louisville, New Albany and Jeffersonville, but not to receive passengers except at Lexington on Sunday. 17 will stop at all stations to let off passengers from main line and North Vernon but will not receive passengers south of North Vernon for any point south. 41 will stop at all stations to let off passengers from E. St. Louis or beyond, but not to take on passengers or to discharge North Vernon passengers.

The respondent's trains are scheduled to connect with main line trains at North Vernon. This point is also a junction with the Pan-Handle and the trains of that company are scheduled as follows:

PAN-HANDLE LINE.	
<i>North.</i>	<i>South.</i>
7:55 a. m.	10:25 a. m.
3:10 p. m., except Sunday.	5:58 p. m.
6:07 p. m. Sunday.	9:40 p. m. Sunday.

The respondent's train No. 72, north bound, is a local freight and does not run on Sunday. For the sixty days prior to the hearing this train was so late that it missed connection with the Big Four No. 34, north bound, at North Vernon 20 per cent. of its trips. All the other trains operated by respondent are interstate trains passing between points in Ohio and states east and points in Illinois, Indiana and Kentucky. The Big Four trains are also interstate, operating over the Michigan division of that company from Louisville to points in Indiana and Michigan.

It will be observed from these schedules that the only north bound train making regular stop at Commiskey and Paris is No. 72, the local freight above mentioned. No. 46, Sunday, and No. 14, week days, are subject to flag at these stations to receive or discharge passengers, but they pass these points between 2:34 and 3:35 a. m., when the stations are closed and when no accommodations are furnished for receiving or forwarding passengers, flagging trains, receiving and storing baggage, or receiving and checking and forwarding baggage. The same is also true on No. 34, which passes these places at 10:34 and 10:39 p. m., subject to flagging. While No. 16 stops at Paris to let off passengers from Louisville, Jeffersonville and New Albany, it does not stop at Commiskey, nor will it receive passengers for North Vernon or intermediate points. In short, the only train north bound scheduled to stop at these points when the depots are open, ready to care for the public, is the local freight train, which does not keep its schedule.

The present service south at these stations consists of No. 43, which is scheduled to stop at all stations. No. 17 will stop on flag at Paris to receive and discharge passengers, but will not stop at Commiskey. No. 41 will stop at all stations to let off passengers from East St. Louis or beyond, but will not receive passengers or let off passengers from North Vernon or perform intermediate service between these stations.

Passengers from these stations for points north on the Big Four or Pan-Handle desiring to take trains in the morning service, to be sure of connections, must take No. 46 on Sunday or No. 41 on week days at the early morning hours mentioned, when there are no depot accommodations furnished, or wait at North Vernon, if No. 72 is late, until 3:10 or 9:40 p. m. Passengers arriving at North Vernon over these connecting lines in the evening and destined to points north of Louisville, must wait until the next morning until 11:02 a. m. for No. 43, or take No. 19 for Louisville and come back home on No. 14 or No. 16 the next morning.

The only corrections and improvement offered by the respondent is to stop No. 41, south bound, at all stations upon flag to receive and discharge passengers, and in all cases when No. 34, Big Four, north bound, passes local freight 72 south of North Vernon, then the conductor of 72 may stop 34 and transfer passengers having tickets for Indianapolis, and station agents at all stations where 34 arrives ahead of 72 may stop 34 for passengers for Indianapolis holding Big Four tickets.

The respondent contends that the service thus corrected will be reasonable. That it cannot afford to keep its stations open after night at points which are not train order stations or block stations, and that it cannot put on additional trains on account of the present congested train movement over this division; and that the schedule of its other passenger trains not giving service at these points cannot be changed on account of interference with other connections at Louisville, St. Louis, Cincinnati, and other points east, and thereby interfering with its service to the government in transporting the U. S. mail.

The service north, if corrected by respondent as suggested, would be as follows: No. 46 Sunday, and 14 week days, and 44 daily, all subjected to flag, and two of them arriving in the early hours of the morning and the other late at night, when there are no station accommodations, as above noted. And 72 in the morning, subject to transfers to Big Four No. 34, as stated.

The service south, if corrected as stated, would be as follows: No. 41 to stop on flag and passing when the depots are not open. No. 43 making regular stops and No. 17 stop on flag at Paris only.

The schedule thus modified fails to furnish reasonable service in either direction in the evening. There is no train north after noon making connection with either the Pan-Handle or Big Four, or performing a local service until after 9 p. m., when the stations are closed, and then No. 44 only stops on flag. There is no service

south after noon connecting with Pan-Handle or Big Four evening trains south. At six of these stations south of North Vernon no south bound train stops after No. 42, leaving at 11 a. m., until the next morning.

The law of this State requires carriers to "so run, operate or schedule their passenger trains as to make reasonable and proper connections at places where they intersect each other," and the Commission is given authority to enforce this requirement.

The authority of the Railroad Commission to regulate passenger train service is thoroughly well settled, even though the performance of the service required by the Commission may of itself result in little, if any profit to the company, provided its business as a whole is profitable. This authority extends to the regulation of interstate trains, unless the company has provided other reasonable and adequate service for the State community. *Miss. R. R. Com. v. I. C. Ry.*, 203 U. S. 335. *Atlantic Coast Line v. N. C. Cor. Com.*, 206 U. S.

The respondent cannot be heard to assert that it cannot afford additional train service on account of the present train movement over its line so long as it permits the Big Four line to use its rails for four daily train movements which perform no service to the locality making complaint. It is not competent for a carrier to lease its rails to a connecting line for through service and thereby deprive itself of the capacity to perform local service due from it.

*Thomas v. West Jersey*, 101 U. S. 71;  
*Washington, etc., R. R. v. Brown*, 17 Wall. 445;  
*Penna. Co. v. St. Louis Co.*, 118 U. S. 290.

The respondent company is under no charter obligations to furnish through service for the Big Four, while it is under such obligation to furnish reasonable local service along this line. As to the through and local service on the respondent's line, neither is paramount over the other. They must both be provided for and must each be reasonable and adequate, and the public can only look to the respondent to perform this service. No obligations rest upon the Big Four Company with reference to service over this line. The rights of the federal government to control interstate passenger service is frankly and fully recognized, but this right is not paramount to the State's right to also exact a reasonable service for the people tributary to the line in this State. Neither service can be operated lawfully to the exclusion or serious detriment of the

other. Neither can one authority exercise its power and control in disregard of the rights and authority of the other.

As viewed by the Commission, the respondent, in addition to the improvement suggested, should arrange for No. 33, Big Four, south bound, to perform local service between North Vernon and Louisville in the evening, or in lieu thereof, schedule 17 to leave North Vernon at 6 p. m., or provide an additional local train south bound in the evening, leaving North Vernon about 6 p. m. The service north should be improved by the transfer of passengers from 72 to Big Four No. 34, north bound, who hold tickets for Big Four points north of North Vernon. When No. 34 passes 72 before reaching North Vernon, agents at all stations where 34 arrives ahead of 72 should stop 34 to receive any passengers for Big Four points north of North Vernon. This service should also be improved by stopping No. 20 at all these stations, or schedule No. 44 to leave Louisville at 6 p. m., or by putting on a new local train leaving Louisville at 6 p. m.

The revenue of the company from its local passenger service on this division is not now large, but it can be said that the service is largely responsible for this fact.

We do not desire, in the first instance, to enter a final order in this proceeding and shall submit these views to the respondent and give it ten days within which to devise an improvement in this service along the lines suggested by the Commission, and submit the same for the approval of the Commission. Upon the company's failure to provide some improvement to this service satisfactory to the Commission, the Commission will at the end of ten days, enter such an order as to it shall seem proper and just.

Pursuant to the suggestion of the Commission, the company agreed to put on an additional train, and such suggestion was approved, and the following order entered on December 31, effective in ten days:

#### **ORDER.**

The respondent, through its general passenger agent, having submitted, for the consideration of the Commission, a proposition for improved service over its line between Louisville and North Vernon, in accordance with the order and opinion of the Commission heretofore filed in this cause, therefore such proposition is now taken up for consideration, and after being advised the Commission does now approve such proposal and now orders and directs in said cause as follows:

It is therefore ordered, in accordance with such proposal and former negotiations had in this cause, that respondent shall so schedule its north bound train, No. 72, as to arrive at North Vernon not later than 9 a. m., and that in all cases when such train 72, north bound, shall be late and be passed by Big Four No. 34, north bound, before arrival at North Vernon, then such train No. 34 shall be stopped and all passengers on 72 having tickets for Big Four points north of North Vernon shall be transferred to No. 34, and said Big Four No. 34, north bound, shall be stopped on flag at all stations at which it arrives ahead of said No. 72, to take on passengers for points north of North Vernon.

It is further ordered, That respondent shall stop its No. 41, south bound, leaving North Vernon at 5:25 a. m., at all stations on such line, upon flag, to receive or discharge passengers.

It is further ordered, That the respondent shall, in accordance with such proposal, put on an additional passenger train to arrive at North Vernon from the south and to depart from North Vernon for the south between 6 and 7 o'clock p. m., and that such train shall perform a local passenger service at all stations in Indiana south of North Vernon.

It is further ordered, That the respondent, in consideration of the establishment of such service, in addition to its present service, may modify its schedule of No. 44, north bound, so as to not be required to pick up passengers at stations on this line north of New Albany, excepting at Otisco, Blocher, and Lovett. Such train, however, shall continue to discharge passengers from Louisville and New Albany at all stations on such line.

This order shall become effective and such service be provided on or before January 1, 1908.

**No. 177.—Jno. Hess and Others v. The Chicago, Indiana & Southern Railroad Company.**

Will Isham, for petitioners.

H. D. Howe, for the respondent.

1. The petitioners, citizens of Lake Village and vicinity, complain of the respondent and asked the Commission to require the construction of a passenger depot and stock pens at such point for the accommodation of the public.

2. The petition was heard at Lake Village by the chairman of the Commission, and subsequently briefs were filed and considered, and an order made by the Commission as indicated in the following opinion by the chairman:

Hunt, Chairman.—John Hess and seventy-four other persons living in and about Lake Village, Newton County, Indiana, filed a petition with the Commission, alleging that the Chicago, Indiana & Southern Railroad Company owns and operates a line of railroad from the city of Danville, in the State of Illinois, to the town of Indiana Harbor, Indiana, and with a connecting line thence into the city of Chicago, which said line of road passes through Newton County, Indiana, and through the said town of Lake Village; that in the conduct of its business the respondent sells and delivers tickets to passengers from other point to Lake Village and delivers them there, and receives passengers at the town of Lake Village for other points; that a great many passengers are being carried to and from Lake Village for hire, and much freight has been received and discharged at that point; that the said town of Lake Village contains two general stores, a blacksmith shop, hotel, boarding houses, postoffice, grain office and other business places, and has a population of more than one hundred people; that it is located in the geographical center of Newton County, and is the center of travel to the people of that locality; that the public highways are so constructed and built and the character of the country thereabouts is such that it is the most convenient point to be reached by a large majority of the people living in that neighborhood.

The petition further alleges that the Chicago, Indiana & Southern Railroad Company has not built nor maintained any sort of a building for the accommodation, convenience or protection of the traveling public; that said railroad company has not built nor maintained any building or platform in which to receive or discharge freight, but that passengers have been received and freight unloaded on the ground without any sort of protection; that cattle, horses and live stock are fed and fitted for market in that locality and shipped in and out in great numbers, but that no stock pens or other conveniences for handling live stock have been provided by the respondent.

After citing these facts the petitioners ask that the respondent be required to provide suitable depot facilities at Lake Village for the accommodation of passengers and property, including stock pens and loading chutes for the proper handling of live stock in and out of that place.

To this petition the respondent answers at length, admitting the statements concerning territory covered by its line of road; that it takes on and discharges passengers and freight at Lake Village, but denying the necessity of additional facilities at that place, and con-



tending that the business of the people is amply cared for at other stations conveniently located, and claiming, also, that it is not its duty, under the law, to construct a depot at Lake Village.

This case was heard at Lake Village Friday, October 8, 1907, and the following is a résumé of the evidence:

Lake Village is located on the line of the Chicago, Indiana & Southern Railroad, a little more than two miles north of Conrad and about twenty-three miles north of Kentland, and lies between Conrad and Schneider; certain of the respondent's trains stop at Lake Village to let off and take on passengers, but there are no passenger facilities of any kind there, not even a platform; that considerable freight was shipped to and from Lake Village, but that outbound freight must be billed from some other station, and that no facilities have been provided for caring for freight received at Lake Village, except a short sidetrack. It was shown that Lake Village had a population of 132, according to the last Rand-McNally census, and that the population is now about 200; that it is situated in the midst of a prosperous farming community, where grain and hay, vegetables, small fruit and live stock are raised and shipped in abundance. It was also shown that there is a pleasure resort, patronized by hunting and fishing parties, on the Kankakee river, and that this resort is most advantageously tributary to Lake Village; that said resort accommodates several hundred persons each year. From a record kept of the number of passengers arriving and departing from trains stopping at Lake Village it was shown that on August 15th there were 12 passengers; 16th, 23; 17th, 29; 18th, 34; September 24th, 52; 25th, 25; 26th, 45; 27th, 9; 28th, 43; 29th, 26; 30th, 21; October 1st, 14. It was also shown that Lake Village has a blacksmith shop, machinery agency, two general stores, a portable elevator, a large pickle factory and other places of business. The evidence further showed many carloads of manure had been shipped in from the stock yards at Chicago, and that many more would be shipped; that much hay was raised in that locality and would be shipped from Lake Village if proper facilities were provided; that wood and coal props were shipped in large quantities, and that this business was just beginning to develop; that in a normal year the portable elevator would ship a large quantity of grain, possibly as much as 100 carloads; that the pickle factory would ship about 30 carloads of pickles each year, and about half as many carloads of cooperage and salt; that many cattle were shipped from the Chicago stock yards to Lake Village each year, and after feeding were returned to Chicago; that much

of this cattle business was diverted from its natural destination, because of the lack of facilities for handling it at Lake Village.

Evidence submitted by the respondent showed that the freight earnings at Lake Village from January to July, 1907, amounted to \$270.60; that the passenger earnings, during the same period, amounted to \$1,177.13, making a total of \$1,447.73 for the six months—almost \$3,000 per annum, according to the respondent's own figures.

I do not think, however, that it would be fair, in considering the needs of depot and shipping facilities at Lake Village, to take into consideration only the figures shown by the respondent, for the reason that much of the business, both passenger and freight, that naturally belongs to Lake Village, has been diverted to other places, and that much business that would have been transacted at that place, with proper facilities, was not transacted at all because of the absence of such facilities.

In addition to the oral evidence heard concerning amount of business transacted at that place, a number of affidavits were filed concerning amount of freight of various kinds shipped in and out of Lake Village.

Among these affidavits was one by Charles Hanson, a farmer living in that vicinity, in which he states that Hess Brothers paid freight on goods in less than carload lots, from January 1, 1907, to June 30, 1907, the period referred to above, to the amount of \$183.34; that Henry Bradford paid on freight in less than carload lots, \$19.40; that one party received from Kankakee 140 cases of beer; from Indianapolis, 30 cases of beer; from Lafayette, 35 kegs of beer; from Lafayette at another time, 30 cases of beer; from Lafayette, 30 cases of pop. That another party received from Kankakee, during this same period, 253 cases of beer. Affiant further says that he is informed and believes that the following freight has been shipped over said road, during said period, in and out of Lake Village: One shipment consisting of five cars of coal; another, ten carloads of manure; another, one carload of fertilizer; another, two carloads of manure; another, one carload of fertilizer; another, four carloads of manure; another, one carload of manure; another, one carload of manure; another, two carloads of cooperage; another, one and one-half carloads of lumber; another, six carloads of hay; another, seven carloads of coal props, and another, one carload of coal props.

Mr. Joseph Adams also made affidavit that he is the owner of four thousand acres of land lying south of the Kankakee river, in

Lake and Lincoln townships, Newton County, Indiana; that in 1906 he received from Chicago, for pasturage on his land, a drove of 580 large steers; that these cattle would naturally have gone to Lake Village but for lack of shipping facilities at that place; that when the grazing season was over he was prevented from loading these cattle, amounting to forty-four carloads, at Lake Village, because of the absence of proper facilities.

Mr. C. B. Davis also makes affidavit that he has ten carloads of manure and one carload of fertilizer for delivery at Lake Village; that he shipped six cars of cattle to Momence, Illinois, and three cars to Hopkins, Illinois, all of which would have gone to Lake Village but for the failure of the railroad company to provide proper facilities at that place.

We think it is fair to assume from these statements that respondent's figures do not show the amount of business actually transacted at Lake Village. If, under existing conditions, with no kind of accommodations for either passengers or freight, the respondent's business amounts to practically \$3,000 a year at this point, we think it fair to assume that its business would be vastly increased if proper accommodations were provided.

In support of its contention in this case the respondent files a brief, in which it states that Conrad has ample shipping facilities; that Schneider has ample shipping and depot facilities; that the people of Lake Village have ample shipping facilities on all sides of them, and that the station at Conrad would in all probability have to be abandoned if a station is required at Lake Village; that it would be impracticable to establish stations every two miles; that there is no duty imposed by law in Indiana upon the respondent to provide freight stations or stock pens; that there is no duty imposed by law upon respondent to erect or maintain a passenger station at Lake Village, for the reason that section 5188 of Burns' Revision of 1901 applies only to incorporated cities and towns; and that the power to determine places where stations are to be located rests primarily with the directors of the railroad company.

We will discuss these questions briefly. The fact that Conrad and Schneider have ample facilities, and that there are ample facilities on all sides of Lake Village, does not supply the necessary shipping and passenger facilities for the people of Lake Village, nor relieve the respondent of its obligation under the law.

Section 5188, Burns' Revision 1901, provides as follows:

"That all railroad companies operating lines through cities and towns of one hundred population or more shall provide and maintain suitable

waiting rooms, together with separate water closets for men and women, for the convenience of the traveling public, and shall keep such rooms open for the period of not less than one hour next preceding the arrival of all passenger trains that are allowed by schedule or flagging to stop at all stations."

We do not grant the contention of respondent that this statute applies only to incorporated towns and cities. On this point the attorney for petitioners submits the following argument:

"It is undoubtedly true that often when used in the statutes the word 'town' does mean a municipal corporation; it can refer to no other meaning in all the statutes that relate to the powers and duties of towns as a separate political entity, because for governmental purposes an unincorporated town is a part of the township. But in the statute requiring the maintenance of depots, the basis of classification is not the form of government, but the population; if the town contains one hundred inhabitants, the statute requires the railroad to build and maintain a depot, irrespective of the form of local government, whether it be city, town or township."

This seems to the Commission to be sound doctrine. Railroads get business from towns, not because of the corporate lines of said towns, nor because of their form of government, but because of their people who make and furnish the business. It appears absurd to say that a railroad can be compelled to build a depot for an incorporated town of 100 people, and that it cannot be required to build and maintain a station for an unincorporated town of 300 or 500 people, where the necessity for it is much greater. It is evident that the legislature in enacting this statute did not have in mind the form of government that towns and cities should have in order to obtain these accommodations, but did have in mind the number of people to be served and the needs of the public for such service. That it would be impracticable to establish a station every two miles may be admitted as a general railroad proposition, but if a railroad company takes a station away from a town of 200 people and locates it at a place where but two or three families live, it cannot complain if it is required to supply proper depot facilities where they are needed. About the removal of the station from Conrad we have nothing to say; that is a matter for the railroad company to determine, but whether the Conrad station is maintained or not, a station should be built and maintained at Lake Village where the people live, where these conveniences are needed, and where they are required by law. It is the duty of the Railroad Commission to enforce the laws of this State, and under the section of Burns' Revision, referred to above, it is clearly the duty of the respondent to furnish depot facilities at Lake Village.

Paragraph b of section 19, chapter 241, Acts of 1907, materially reinforces the former act relating to depots. This section reads as follows:

"Whenever said Commission shall secure reliable information, or complaint shall have been made, or because of reports made by its inspectors, shall have reason to believe that any carrier in this state does not keep its road or equipment in proper condition and repair for the security of its employes or the public, or that any carrier as now required by law does not maintain adequate and suitable passenger depot buildings and platforms, said depots with the passageway to the adjacent street to be well lighted, to be kept well heated and in approved sanitary condition, supplied with wholesome water and closets for men and women, and kept open at least one hour before and fifteen minutes after the arrival of each passenger train stopping at said station, \* \* \* or that any carrier does not keep and maintain adequate and suitable freight depots, buildings, switches and sidetracks for the receiving, protecting, handling, forwarding and delivery of all freight offered for shipment or received at said stations; \* \* \* It shall be the duty of the Commission to cause such investigation to be made as it may deem necessary, and when such investigation shall have been made said Railroad Commission shall make a report to the manager or superintendent of the railroad company. In said report and recommendations the Commission shall make an accurate statement of the time such examination was made, of the exact location, character and extent of such defects, or omissions, if any such shall have been found, and shall also recommend such reasonable changes and improvements, additions, buildings and accommodations as are, in the opinion of the Commission, necessary to remedy such faults, neglects, requirements or defects. Such recommendation shall set out specifically a reasonable time within which such improvements or changes, or additions, shall be made by the railroad company. And if they are not so made within said time so specified, then the Commission, if it deem it best to do so, may file a bill in equity in some circuit or superior court of the State having jurisdiction of the carrier to require compliance with its order."

It will be seen, both from the provisions of section 5188, Burns' Revision, 1901, in reference to passenger accommodations, and the provisions of paragraph b, section 19, chapter 241, Acts of 1907, quoted above, that the powers of the Commission and the duty of the carrier are clear, and the respondent should at once furnish the people of Lake Village the accommodations and conveniences required.

The contention of the respondent that there is no duty imposed by law in Indiana on railroad companies to maintain freight depots and stock pens at particular points, or at any point, is not a valid one. The law says a railroad company must furnish adequate freight facilities. Not only does the law quoted above require this, but section 2, chapter 231, Acts of 1907, provides as follows:

"All carriers subject to the provisions of this act are required to provide and to maintain in serviceable condition the number of suitable and substantial freight cars necessary to promptly supply the demands on their respective lines in this State for the prompt and expeditious shipment of all freight in carload lots. All such carriers are also required to provide and maintain in serviceable condition the number of suitable and substantial locomotives, and other appliances and facilities necessary to promptly and expeditiously transport from point of origin to destination in this State all freight in carload lots which shall originate on their respective lines in this State and be tendered for transportation."

At a town where a large quantity of freight is shipped in less than carload lots, and where a large amount of freight is shipped in carload lots, it can not be said that the freight facilities are adequate when no depot is furnished, when no agent is provided, and when there is no platform upon which freight may be unloaded; nor can it be said in a community where a large amount of live stock is shipped, both inbound and outbound, that the facilities for handling this class of freight are adequate when no stock pens or stock chutes of any kind are provided; neither can it be said that the passenger facilities of a station of this kind are adequate when there is no depot, no platform, no lights of any kind maintained, where the embankment is so high as to make it dangerous for passengers alighting from or attempting to board a train; nor can it be said that a railroad company furnishes appliances and facilities necessary to promptly and expeditiously transport from point of origin to destination in this State all freight in carload lots which shall originate on its line in this State and be tendered for transportation, when said railroad company fails to provide any facilities for the loading and receiving of live stock and other freight.

It is contended by the respondent's counsel that the Railroad Commission has no power to say where a station may be located, and that that power rests in the directors of the respondent company. As a general proposition of railroading this may be correct, but we think that it cannot be claimed that a railroad company can ignore a populous community and establish its freight and passenger stations at a place which is practically uninhabited.

In support of its contention that the Commission may not direct where a station shall be located, the respondent's counsel quotes the following principle laid down in the American and English Encyclopedia of Law, 2d Ed., vol. 26, page 497:

"The better doctrine seems to be that the courts have no power, unless the duty is imposed upon the railroad company by the legislature, to require railroad companies to establish stations at particular places, or to

construct what they may deem to be necessary buildings for the protection of passengers and freight at established stations."

In support of this principle a large number of authorities are cited.

We think the doctrine here laid down cannot be applied to this case for the reason that the legislature of Indiana has imposed upon railroad companies the duty of providing suitable passenger and shipping facilities, and by legislative enactment it has also been made the duty of the Railroad Commission to see that railroads comply with this law.

The power of this Commission, under the laws of Indiana, to require the construction of proper freight and passenger facilities in towns of one hundred or more, is well established, and the evidence shows that in this case there is an entire absence of these facilities at the point in question. An order will be entered requiring that a depot shall be constructed, and that other facilities for accommodating the public, both in relation to passengers and freight, shall be provided.

**No. 178.—Ex parte, Chicago, Indiana & Southern Railroad Company, the Chicago Terminal Transfer Railroad, and the Elgin, Joliet & Eastern Railroad.**

1. This is an application by these companies for the approval of plans for the improvement of an interlocking device at the crossing of their lines at Grasseli, Indiana. The plans were submitted to the Commission's Consulting Engineer and were rejected, and the case is continued on the docket for the purpose of permitting the parties to file amended plan.

**No. 179.—Ex parte, Chicago, Indiana & Southern Railroad Company, Chicago & Indiana Air Line Railroad, Chicago Terminal Transfer Railroad, and the Elgin, Joliet & Eastern Railroad.**

1. Application by these companies for the approval of plans for interlocking device at the crossing of their lines at East Chicago. Amended plans were submitted to the Commission's Engineer, and upon his report being filed the same was approved on condition that the derails in the traction line be moved back 200 feet from the crossing.

X  
No. 180.—**Ex parte, Interior Hardwood Company.**

1. This was an application by the petitioner to be allowed to construct its service track in such manner as to not furnish the standard clearance between it and the fence separating its property and the property of the Belt Railway Company at Indianapolis, Indiana. The petition in this case was originally granted. Subsequently the Commission, on reconsideration, determined that it was without jurisdiction in the premises, and therefore set its former order aside and dismissed the petition.

No. 181.—**R. W. Vaughn & Co. v. The Wabash Railroad Company, and the Lake Shore & Michigan Southern Railway Company.**

R. W. Vaughn, for petitioner.

W. V. Stuart, for the Wabash.

N. D. Doughman, for the Lake Shore.

1. This was a petition to require the respondents to make physical connection between their lines at Steubenville, Indiana, and to transfer business at that point. The cause was heard at the capitol and after due consideration the petition was denied. The facts and conclusions of the Commission are set forth in the following opinion by:

Wood, Commissioner—The petitioner represents that respondent railroads cross each other at grade at Steubenville and prays that they may be required to put in a physical connection. Chapter 241, subdivision (1), page 462, Acts 1907, provides that carriers who handle freight in carload lots shall construct interchange tracks at all points in this State where they cross over or under grade, "Provided, That upon sufficient showing the Commission may relieve any such carrier from the operation of this provision until such time as the necessity therefor shall arise."

We think that the facts in this case show that these carriers ought to be relieved from making this connection at this time. It is not shown that any business will be exchanged here except a few carloads of logs or lumber, the witness stating that the business would average at least two carloads monthly. Doubtless if the interchange track were constructed there would be something more, but how much or what is not shown. The track would cost between \$3,500 and \$4,500, and would run through a cut 7 to 10 feet deep. This cut would fill up with snow in the winter, and the



interchange switches might have to be taken into the interlocking plant at that point, these two facts tending to show an expensive maintenance. The Commission has recently ordered one of the respondents to construct a depot at this point, and is insisting that the other respondent shall unite with the Lake Shore in this improvement so as to afford passenger facilities and adequate and suitable depot accommodations. A considerable sum of money will be needed for this purpose. In addition, we do not feel it would be fair and just to require the physical connections at the cost stated, and with the returns to the carriers indicated in the evidence, and an order will be entered accordingly.

**No. 182.—Indiana Fuel & Supply Company v. Judson Harmon, Receiver, C., H. & D. Railway Company.**

Linton Cox, for petitioner.

Elam, Fesler & Elam, for respondent.

1. The petition in this case complained of the switching charge imposed by the respondent for moving carload traffic from its Indianapolis yards to the Central Hospital for the Insane at Indianapolis, Indiana. The cause was heard by the Commission at the capitol and an order made reducing the respondent's charges. The order made by the Commission was complied with by the respondent. The facts appearing in the cause and the conclusion of the Commission thereon are set forth in the following opinion by:

McAdams, Commissioner—The Cincinnati, Hamilton & Dayton Ry. Co. has a spur track running from its main line to the Central Hospital for the Insane, located at Indianapolis. This spur track puts off from the main line about three thousand feet from the west end of the company's Moorefield yards, located at Michigan street. The total distance from the asylum to the connection with the Indianapolis Belt Railroad is about two miles. Passing through the yards, and from the yards to the asylum, it is approximately one and a half miles. This spur track was put in for the purpose of serving the asylum. The only traffic is inbound loads and outbound empty cars. No other line has connection with the asylum. This spur has been in use as long as any one present at the hearing could remember. Until September, 1906, the switching charge for serving the asylum had been two dollars per car. The traffic consists of about 600 cars of coal and about 25 cars of freight annually.

The respondent, in September, 1906, published a local tariff of

15 cents per ton on coal and 25 cents per ton on merchandise, with a minimum of \$5.00 per car. At the time this tariff was published, the party having the coal contract with the asylum brought the coal in over the Southern Indiana and the C., H. & D. railroads, via West Dana, giving the respondent a haul of about 70 miles. The through rate was 50 cents per ton, of which rate the respondent received 28 cents, and for which it performed its portion of the through service and made the delivery on the spur track to the asylum. The service performed then is just the same as that performed now. That is, the respondent's switching crew takes the coal from the yards and sets it at the asylum and returns the empties. The only difference is that now the empties must be returned via the Belt to the connecting line. The average tonnage of the coal cars is 40 tons. The respondent's part of the through rate on the basis stated would be \$11.20. The switching service at the local tariff rate would be \$6.00 per car, leaving only \$5.20 for the haul from West Dana to the Moorefield yards, or 1 8-10 mills per ton per mile. Under this statement and practice of respondent, we are loath to consider the expenses of the switching service at the figures stated, as the respondent seemed willing to continue at the through rate. The petitioner, who now has the contract for the coal supply, obtains the coal off the Vandalia line at a rate of 50 cents per ton. The cars are delivered via the Belt to respondent's Moorefield yard and by it taken to the asylum switch. The petitioner objects to the local tariff of 15 cents per ton and asks that a reasonable switching charge be fixed by the Commission. The almost universal charge for switching in Indianapolis is two dollars per car. The practice of respondent at all its other switches conforms with this charge, many of which are longer than the service in this case. The respondent claims that in all other instances it moves the traffic in a switch train and that there is an outbound product from most points, while in this case there is no outbound product and that the service must be performed specially for the asylum. There is some reason in this contention and the respondent is entitled to some consideration on that account. The switching service is to a certain extent reciprocal and is not conducted with a view to revenue. The delivering lines generally absorb the charge, and as we are informed the service is not established for the purpose of revenue solely, but to mutually facilitate the dispatch of the business of the connecting lines at terminal points.

In view of the facts and the long established practices at this point, we have concluded to fix a rate in this instance of three

dollars per car, including the return of the empty cars in the usual way. We are of the opinion that this is a reasonable charge and will afford respondent reasonable compensation for the service rendered.

**No. 183.—Ex parte, New York, Chicago & St. Louis Railroad Company.**

1. This was an application by the petitioner to be allowed to construct a loading and unloading platform along the building of Mossman, Yarnell & Company, in the city of Fort Wayne, the same to be closer to the respondent's track than eighteen inches of the widest car or locomotive to be used thereon. The Commission, after considering the petition, and being advised in the premises, entered an order granting the petitioner permission to construct such platform in accordance with the petition and the plat filed with the same.

**No. 184.—Edgar Webb & Others v. The Wabash Railroad Company.**

C. R. Milford, for the petitioners.

W. V. Stuart, for the respondent.

1. In this matter the petitioners, citizens of Attica and vicinity, complain of the passenger service on the Attica & Covington branch of the respondent's railroad. The respondent waived formal notice of the petition, and after consultation between a member of the Commission the petitioners and superintendent, J. C. Sullivan, of the respondent, an order was entered requiring the respondent to improve the service. This order the respondent has complied with and the same reads as follows:

The petitioners having filed their petition herein by C. R. Milford, their attorney, asking that the respondent be required to improve its passenger service between Attica and Covington, the Commission requested the presence of J. C. Sullivan, superintendent of the respondent, to consider the same, and such superintendent having appeared to such petition and waived a hearing thereon and confessed the existence of the defects charged in the petition, and agreed to conform to any reasonable regulation or order which the Commission should make thereon, therefore, such petition is now submitted for consideration and after being considered, together with the statements of the superintendent, the Commission does now order thereon as follows:

That the respondent be and it is required to operate its passenger trains between Attica and Covington upon its present published schedule, without delays, except such as shall be caused by unavoidable casualty: Provided, That No. 35 shall leave Attica at 8:15 a. m. after November 15 next. Provided, That train No. 37, southbound, may be held a reasonable time for main line connections at Attica, or to do switching en route until October 15, 1907, while the Company operates its gravel pit, but the delay for switching shall not exceed thirty minutes. Provided, also, While such company's gravel pit is being operated, and until October 15, 1907, train No. 34, northbound, may be delayed to do switching at such pit not longer than thirty minutes; and provided, that train No. 36, northbound, may be delayed not exceeding thirty minutes to do switching at the Wm. P. Carmichael Company gravel pit, while the same is in operation.

This order shall become effective at 6 o'clock a. m., September 27, 1907.

**No. 185.—Ex parte, The Indianapolis Union Railway Company.**

1. This is an application by the petitioner to be relieved of the duty of complying with the act of the General Assembly approved March 9, 1907, requiring the installation of an approved block system for the control of train movements. Upon consideration the Commission declined to take action at the time the petition was filed and requested the petitioner to pursue its investigations further before insisting upon action by the Commission, and the matter is still pending.

**No. 187.—Inquiry Concerning Discrimination in Coal Rates and Matters Connected Therewith.**

1. It having been made to appear to the Commission that the Vandalia Railroad Company and the Big Four Railroad Company were hauling coal to Indianapolis, Logansport, Plymouth, Lime-dale, Hibbard, Crawfordsville, De Long, Newton, Frankfort, Sand Creek and Greencastle for the use of connecting lines for less than such companies haul like coal for domestic use, it was ordered by the Commission that such originating carriers and connecting lines, for whose use the coal was so carried, should appear before the Commission on October 23, 1907, and show the extent of traffic so carried, and further, to show why such rates should not be ordered discontinued by the Commission and why prosecutions should not

be commenced to collect penalties accruing for such discriminations in rates. The cause was heard by the Commission at the capitol, and after briefs being filed and considered, the same was determined as shown in the following opinion by:

Hunt, Chairman.—This inquiry was taken up by the Commission on its own initiative concerning what appeared to be discrimination by certain common carriers as against the consumers of commercial coal, it having come to the knowledge of the Commission from information on file in its Tariff Department that the Vandalia Railroad Company was making a rate from mines on its lines to Indianapolis and Logansport in this State for the use of the P., C., C. & St. L. Railway Company; to Plymouth, Indiana, for the use of the Pennsylvania company; to Limesdale and Crawfordsville for the use of the Chicago, Indianapolis and Louisville Railway Company; to De Long and Newton in this State for the use of the Erie Railroad Company; to Frankfort in this State for the use of the Lake Erie and Western Railroad Company, and to Sand Creek in this State for the use of the Central Indiana Railway Company that was *prima facie* lower than the rate given by the same railroad company to dealers in and consumers of commercial coal, and that the C., C., C. & St. L. Ry. Co. was carrying coal from Coal Bluff, Indiana, to Greencastle, Indiana, for delivery to the C., I & L. Ry. Co. at what appeared on its face to be a lower freight rate than it accorded to users of commercial coal at Greencastle on coal carried from Coal Bluff. The Commission ordered that all carriers publishing such rates and that all carriers for whose benefit such rates were published should appear before the Commission at Room 85, State House, Indianapolis, Indiana, at 10 o'clock a. m. on the 23d day of October, 1907, and file a tabulated statement of all traffic moved on such rates subsequent to June 9, 1907, up to and including September 30, 1907. Such carriers were further ordered to show why such preferential rates for transporting coal were not unlawful and why the Commission should not forbid the further continuance of the same for the movement of fuel coal to such connecting lines, and why the Commission should not cause prosecutions to be instituted for the recovery of penalties accruing under the laws of this State for the movement of such coal under such rates as to the originating lines, and for receiving the same on such rates as to the receiving lines.

The case was reassigned, the inquiry was heard on the 25th of October, at the place named in the order, and the evidence produced was in substance as follows:

Mr. George W. Davis, General Freight Agent of the Vandalia Lines, testified that coal was hauled by his line for railroad purposes from I. & V. mines from Bushrod, from the Seeleyville group, and from Brazil district; that the rate made on coal for railroad purposes did not make the rate higher on coal carried for commercial purposes, but on the contrary, tended to cheapen transportation to the public; that he had never had a single complaint from a dealer in or consumer of commercial coal in regard to these rates, and that the rates had been published and placed in the hands of the agents in the usual way; that railroad coal was handled with less cost to the delivering carriers than other classes of coal. On this point we quote from the testimony of Mr. Davis as follows:

"I might state that fuel rates as arranged by the Vandalia, the coal is delivered at the consuming point. Take for instance, Indianapolis for the Pennsylvania Railroad. There is no switching charge, where in the domestic rate we are bound to pay the switching charges on all the coal on which we only get a proportion of the rate." \* \* \*

"We are not charged with switching. We sometimes get our cars back the same day we deliver them or the day following. If we deliver them in the morning we get them back the same day."

On the question of coal rates in Indiana generally, and in answer to a question by Commissioner Wood, as to whether these rates were high or low, Mr. Davis answered that they were as "low or a little lower than the rates in other states."

The Commission has frequently found it necessary to correct these rates to certain points, but generally speaking, there seems to be little complaint that coal rates in Indiana are excessive, but, on the contrary, not only the testimony of Mr. Davis, but other information in the possession of the Commission leads us to believe that rates on this class of traffic in Indiana are generally as low as in other states, and this is as it should be, for Indiana produces vast quantities of coal, and the manufacturers of this State give to the carriers a very large amount of high class freight in manufactured products.

It has been the policy of the railroads in Indiana, when conditions seemed to demand it, to assist in bettering local industrial conditions by giving a lower rate on coal used for manufacturing and steaming purposes than on coal used for domestic consumption. The Legislature recognized the justice and wisdom of this policy by writing a provision for its continuance into the statutes of the State, which provision is found in Section 13 of an act commonly

known as the "Shippers' Bill," approved March 9, 1907, in the following language:

"It shall be lawful for such carrier, after obtaining the permission of the Railroad Commission of Indiana so to do, in making such rates to provide for the transportation of coal to be used for manufacturing purposes and steaming purposes at a reasonably less rate than the rates which such carriers may provide for the transportation of coal to be used solely for domestic consumption."

But even before this provision was written in the law, the Railroad Commission of Indiana recognized the right of the carriers to pursue this policy in a decision rendered in the case known as the "Gas Belt" case, and one of the grounds upon which this decision was based was the broad ground of public policy.

If it were admitted that the rate given railroads was, in fact, lower than the rate on commercial coal, it might not be without authority, and it is by no means certain that it could be considered a violation of the Indiana statute prohibiting unjust discrimination, which statute reads as follows:

"If any railroad, subject hereto, directly or indirectly, or by any special rate, rebate, drawback or other device, shall charge, demand, collect or receive from any person, firm or corporation a greater or less compensation for any service rendered by it than it charges, demands, collects or receives from any other person, firm or corporation for doing a like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances and conditions, such railroad shall be deemed guilty of discrimination. It shall also be an unjust discrimination for any such railroad company to make or give any undue or unreasonable preference or advantage to any party, person, firm, corporation or locality in connection with the transportation of any person or property, or to subject any particular kind of traffic or any particular person, place or locality to any undue or unreasonable prejudice, delay or disadvantage in any respect, whatever."

In the Gas Belt case the Commission construed this provision to mean that the railroad company must charge every shipper the same for "doing a like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances and conditions," and this means simply that there shall not be unreasonable or unjust discrimination. It is contemplated in the law that there shall be discriminations in rates; in fact, such discrimination appears unavoidable. What the law seeks to prevent is unjust and hurtful discrimination, discrimination that helps one person or industry or locality to the harm of another person, industry or locality; discrimination that gives to one man in business an undue advantage over his competitor.

In discussing what is meant by "undue and unreasonable preference or advantage," Judge Jackson, afterwards a Judge of the United States Supreme Court, in the case of the Interstate Commerce Commission vs. Baltimore & Ohio Railroad Company, 43 Fed., p. 37, said:

"These words necessarily involve the idea or element of comparison of one service or traffic with another similarly situated and circumstanced, and require that, to be undue and unreasonable, the preference or prejudice must relate and have reference to competing parties, producing between them unfairness and unjust inequality in the rates charged them, respectively, for contemporaneous service under substantially the same circumstances and conditions. In determining the question whether rates give an undue preference or impose an undue prejudice or disadvantage, consideration must be had to the relation which the person or traffic affected bear to each other and to the carrier. When and so long as their relations are similar or substantially so, the carrier is prohibited from dealing differently with them in the matter of charges for a like and contemporaneous service."

After citing a number of English cases, Judge Jackson continues:

"The English cases referred to above, and others that might be cited, establish the rule that, in passing upon the question of undue or unreasonable preference or advantage, it is not only legitimate, but proper, to take into consideration, besides mere differences in charges, various elements, such as the convenience of the public, the fair interest of the carrier, the relative quantities or volume of the traffic involved, the relative cost of the services and profit to the company and the situation and circumstances of the respective customers with reference to each other, as competitive or otherwise."

In affirming this case, the Supreme Court of the United States, 145 U. S. 263, said:

"The principal objects of the Interstate Commerce Act were to secure just and reasonable charges for transportation; to prohibit unjust discrimination in the rendition of like services under similar circumstances and conditions. To prevent undue or unreasonable preference to persons, corporations or localities." \* \* \*

"It was not designed, however, to interfere with customary arrangements made by railway companies for reduced fares in consideration of increased mileage where such reduction did not operate as an unjust discrimination against other persons traveling over the road. In other words, it was not intended to ignore the principle that one can sell at wholesale cheaper than at retail. It is not all discriminations or preferences that fall within the inhibition of the statute, but only such as are unjust and unreasonable."

In this opinion the Court held that the railway company was justified in carrying goods for one person for a less rate than that



at which they carried the same description of goods for another if the circumstances rendered the cost of carrying the goods for the former less than the cost of carrying the goods for the latter. In summing up in this case, after citing a number of cases, the Court said:

"In short, the substance of all these decisions is that railway companies are only bound to give the same terms to all persons alike under the same conditions and circumstances, and that any fact which produces an inequality of condition and a change of circumstances justifies an inequality of charge."

Numerous cases might be cited holding the same doctrine enunciated in the case referred to above, but this doctrine seems to be so well established as to require little discussion, but we call attention to another case cited by Mr. Pickens in his brief for the respondent, the Vandalia R. R. Co. and the P., C., C. & St. L. Railway Company. This is the case of *Savitz vs. Ohio and Mississippi Railroad Company*, 150 Ill., p. 208.

In this case the Court said:

"This action is brought under the statute of this State against extortion and unjust discrimination by railroads in the transportation of passengers and freight. The discrimination alleged in the declaration is, that the defendant charged the plaintiff 45 cents per ton for transporting coal from his mine to East St. Louis and at the same time charged the Consolidated Coal Company but 31¼ cents per ton for shipment to the same place from one of its mines, which, like that of the plaintiff, was situated on the line of the defendant's road between 10 and 15 miles east of said city.

"There was no controversy upon the trial as to the fact that the plaintiff had, during the time alleged, shipped large quantities of coal from his mine to East St. Louis for which he was charged by the defendant, and paid, 45 cents per ton, and that during the same time the Consolidated Coal Company also shipped from a mine similarly situated as to legal freight charges, to the same place, coal, for which it was charged, and paid, but 31½ cents per ton, but counsel for appellant seemed to understand this fact as conclusive of defendant's liability. There was, however, no conflict in the evidence as to the further fact that the coal of plaintiff so shipped was known as "commercial" coal, while that transported for the coal company was called "railroad" coal, and that the manner of loading and delivering the two classes was materially different.

"The coal was not of the same class nor was it shipped in the same manner. By the express language of the statute, the right of action accrues only when the discrimination is unjust."

This seems to bear directly upon the case now before the Commission. It developed in the inquiry that one class of coal hauled

was known as "commercial" coal; that the other was "fuel" or "railroad" coal, and that the manner of loading and delivering the two classes of coal was materially different. There seems to be no doubt that it is proper in this case to take into consideration the volume of traffic, in so far as it affects the question incident to the handling of large quantities as compared with small quantities, the cost of the service, the manner of delivering and handling, and the fact as to whether or not the different customers served were competitive or otherwise. The services rendered in carrying railroad coal seem to be entirely different from the services rendered in carrying commercial coal. The evidence shows that cars loaded with commercial coal were held from three to four days longer than cars used in carrying railroad coal. If this is true, and it is undisputed, this one item alone amounts to from \$7.50 to \$10.00 per car. Commercial coal, as a rule, is hauled in much smaller quantities than railroad coal, the latter being hauled, at times, in almost solid train loads. It was shown by a tabulated statement filed by the respondent, the Vandalia Railroad Company, on the order of the Commission, that from 25 to 38 cars per day were at times delivered to the P., C., C. & St. L. Ry. Company at Logansport; that at other times from 5 to 20 carloads per day were delivered and that the delivery of a single car was a rare occurrence. It was also shown that there was no switching charge on railroad coal, while a switching charge must be paid on domestic or commercial coal. That railroad coal was taken by the delivering carrier to the tracks of the receiving carrier and taken care of at once by the receiving line, without further trouble to the delivering line, while commercial coal occupied the tracks of the delivering carrier often for many days at a time.

These things may all be taken into consideration by the carrier in fixing rates. But there is brought to our attention another important element in these transactions—an element which demands our most careful consideration, and that element is the public good. Mr. Davis, General Freight Agent of the Vandalia, testified that the Vandalia delivered to the P., C., C. & St. L. at Logansport 1,500 tons of coal per day. This would be approximately 450,000 tons per annum. The tabulated statement filed by counsel for the P., C., C. & St. L. Ry., covering the period from June 9, 1907, up to and including September 30, 1907, practically bears out these figures. In addition to the coal delivered at Logansport, this statement also shows that large quantities of coal were delivered at Indianapolis, and we think it is safe to say that the Pennsylvania Railroad con-

sumes a half million tons of Indiana coal each year, and that the total consumption of Indiana coal by railroads affected by this inquiry would amount to at least 750,000 tons per annum, and that if this rate is permitted to continue that this amount will be largely increased. The importance of this statement will be seen in the light of the undisputed evidence of Mr. Davis, who said:

"The Vandalia mines were not producing what they were two years ago. The matter was taken up with the Traffic Department of the Vandalia Railroad, and that department was urged to make arrangements by which the output could be increased and the thought occurred that the Pennsylvania Railroad might be supplied with their fuel as being more convenient at Logansport and Indianapolis. At that time the Pennsylvania was hauling coal from its own mines in Pennsylvania, from Ohio and from the Hocking Valley, and distributing it along their lines between Indianapolis and Chicago. There was a meeting held, attended by the representatives of the Mechanical, Operating and Traffic Departments of the railroad, and the coal operators. It was a lengthy conference. The Pennsylvania people were well satisfied with their own coal on their own road. For instance, they had two coal mines at Conesville, Ohio, 60 miles east of Columbus, and every fireman on the Pan-Handle and every engineer is glad to get that coal because they have so little trouble with it. It was only after the greatest effort and the strongest of arguments on the part of the Vandalia management that the Pennsylvania people could be induced to take the Vandalia coal. The demand was made for a 50-cent commercial rate, but the statement was flat-footedly made by the Pennsylvania people that they would not pay 50 cents a ton. They said 'We will try it if you want to make it at 40 cents, and if it isn't satisfactory, we will go back to our own coal, the Hocking Valley coal, which was the favorite of the Mechanical Department, and the different shops and the firemen and engineers wanted it,' and it was with the greatest of difficulty that the Vandalia got the Pennsylvania to try this coal."

It will be seen from this statement that it required great effort to induce the Pennsylvania people to try Indiana coal and to produce this market for the output of our mines, and it will also be seen from the evidence that if the rate, as it now exists, is raised, on railroad coal, the Pennsylvania Railroad Company would bring coal from its mines along its lines in Ohio and Pennsylvania, thus destroying a market for a half million tons of coal per annum as to this one company.

Representatives of other companies testified to the same effect; i. e., that if this rate was raised their coal would come from Illinois and Ohio, therefore, I think it is safe to say that an increase in these rates would destroy a market for 750,000 tons of Indiana coal, and it might reach a million.

The mining of this coal, the hauling the same to the various markets, involves the employment of several thousand men, effects

the welfare of a large number of citizens of Indiana and pays to the miners, railroad employes and other laborers of this State at least a million and a half dollars annually, and circumstances and conditions seem to point to an increase in the consumption of railroad coal and a consequent increase in the amount of money paid in wages to Indiana laborers if this rate is permitted to remain undisturbed.

The Commission is of the opinion that it is neither required nor justified by law or public policy to hold that the rates affected by this inquiry are unjustly discriminative, but it feels that in construing the law in this case, it is justified in adhering to the principle laid down by a standard author, who, in speaking of the construction of statutes of this character, says:

"A construction which must necessarily occasion great public and private mischief must never be preferred to a construction which will occasion neither or not in so great a degree unless the terms of the instrument absolutely requires such preference.

"Statutes will be construed in the most beneficial way which their language will permit to prevent absurdity, hardship or injustice; to favor public convenience and to oppose all prejudice to public interests."

To act upon any other theory of construction would be erroneous and subject the Commission to just criticism.

Sub-division "B" of Section 11 of the Railroad Commission Act provides that "the Commission shall make an annual report to the Governor, which shall be transmitted to him on or before the first Wednesday in January, and that the report shall include such statements, facts and explanations as will disclose the actual working of railroad transportation in its bearing upon the business and prosperity of the State."

We think in view of the authorities cited, that the Commission should not only report to the Governor a statement of railroad transportation in this State bearing upon the business and prosperity of the State, but that in its enforcement of the law, it should also have in mind the business and prosperity of the State and the well-being of its citizens.

We can see no good reason for changing the rates involved in this inquiry. There is no complaint that the rates on commercial coal are too high. There is no competition between the dealer in and consumer of commercial coal and the railroads to whose lines railroad coal is delivered by the respondents. No citizen of Indiana has complained that these rates are unjust. So far as the Commission has been able to ascertain from the inquiry, not a single

citizen of this State has been injuriously affected by the practice which is the subject of this investigation.

We find, therefore:

First. That in consideration of the volume of traffic, the difference in the manner and expense of handling railroad coal and commercial coal, and all of the elements that enter into the cost of this class of transportation that the carriers subject to this inquiry have not violated the law.

Second. That railroad coal does not enter into competition with commercial coal, therefore, the rates quoted by the railroad companies are not unjustly discriminative.

Third. That the Commission has heard no complaint and has no information that the rate on commercial coal to the points involved in this inquiry is excessive, or that the rate on railroad coal injuriously affects the citizens of this State.

Fourth. That the rates given by railroads on railroad coal to connecting carriers do not have a tendency to increase in any way the rates on coal used for other purposes.

Fifth. That to make these rates higher would not make the rates lower on commercial coal.

Sixth. That to increase these rates would strike a severe blow at the business and commercial prosperity of the State in that it would destroy a market for approximately a million tons of Indiana coal each year and take from the wage earners of this State more than a million dollars per annum.

It is the duty of the Commission to help and not to hinder the legitimate business interests of the State.

The inquiry is, therefore, closed and the case dismissed.

#### **McAdams, Commissioner, dissenting.**

I can not agree to the conclusions reached by my associates in this inquiry, because:

1. I do not have the same impression as to the facts.
2. I do not agree to the principles announced that the volume of tonnage may in law or fact be considered a just reason for different rates to different shippers of the same commodity from and to the same points, rates to vary with the volume of tonnage furnished by each.
3. In my opinion a coal originating line may carry fuel coal for connecting lines to the junction point at a rate no greater than its division of a through rate via the same junction when for points

beyond, and that the order in this case should be based solely on that proposition.

4. The opinion of my associates disregards rule 11 promulgated by the Commission for the issuing and publication of tariffs, which rule indicates that a tariff will not be received which is to be applied for the benefit of a single named person or corporation.

**No. 188.—Calora Coal Company v. The Southern Indiana Railway Company.**

J. E. McCullough, for Complainant.

Carl Wood, for Respondent.

McAdams, Commissioner.—The petitioner owns and operates a coal mine located on respondent's railroad in Greene county, in this State. Being dissatisfied with the respondent's method of coal car distribution and its practices in reference thereto, the petitioner filed a request with the Commission for the adoption and promulgation of rules by the Commission for the regulation of coal car distribution on the line of respondent's railroad. The proceeding, under the statutes, involves all the mines on the respondent's railroad, being some thirty in number. Notice was given to the respondent and the coal mine operators as required by law, and the application was heard at Terre Haute on the 10th and 11th of October and was subsequently argued orally at the capital.

The proceeding involves action by the Commission pursuant to certain provisions of the act approved March 11, 1907, and commonly known as the "Shippers' Bill." The particular sections of that act which require our consideration are as follows:

Sec. 5. Every carrier subject to the provisions of this act shall furnish to all parties who may apply therefor, as provided in this act, suitable cars for the transportation of all kinds of freight in carload lots. If the car equipment of the carrier is not adequate at any time to supply the whole number of cars demanded by applicants for immediate use, then the carrier shall distribute its available equipment between the applicants in proportion to their respective requirements for immediate use, and such distribution shall be made without discrimination between shippers or between competitive and noncompetitive points, subject to such rules and regulations as may be provided by the Railroad Commission of Indiana: Provided, however, That preference shall be given to the shipment of live stock and perishable property.

Sec. 9. At the request of any carrier, coal mine operator or any other party interested therein, the Railroad Commission of Indiana, after five days' notice to the interested carrier and the coal-mine operators on any carrier's line in this State, and after a full hearing concerning the same, the Railroad Commission of Indiana shall adopt and promulgate rules and regulations for the distribution by the carrier of empty coal cars to the

coal mines on the line of any carrier in this State subject to the provisions of this act. The rules and regulations promulgated by such Commission shall not conflict with the provisions of section 5 of this act. The Commission, by such rules and regulations, shall prescribe the manner in which the cars shall be applied for, the manner in which the capacity and output of the mines shall be ascertained, and the manner in which empty cars shall be distributed and delivered, and the Commission shall adopt such other rules and regulations concerning such subject as shall be necessary to secure a fair and equitable distribution of cars without discrimination, so that each mine, in case of car shortage, shall be secured the maximum amount of working time to which it is entitled, after taking into consideration the capacity and output and the shipping orders of all the mines and the available equipment on the line for use in their operation. If conditions are the same the Commission may adopt the same rules and regulations for all carriers having coal mines on their lines, or different rules and regulations for different lines, as the differing conditions may require. The rules and regulations so adopted shall go into effect upon the date fixed therefor by the Commission and shall be observed by the carriers and all other persons until set aside or modified by the Commission, and the Commission is given authority at any time, upon application by any party interested, to modify or set aside any such rules and regulations so adopted, and to adopt other rules and regulations as the necessities of the case may require: Provided, That any party interested in such rules and regulations may file a bill in equity against the Commission in any court of competent jurisdiction to set aside or annul any rule or regulation so adopted by the Commission.

Sec. 10. Every such carrier which shall fail or neglect to deliver to any coal mine operator on its line empty coal cars for use at such mine in accordance with such provisions of this act as concerns the delivery of such cars, and in accordance with the rules and regulations of the Railroad Commission of Indiana, adopted pursuant to this act, shall forfeit to such coal mine operator the sum of two dollars per day for each car for each day, or major part thereof, that the same remains undelivered.

These statutory provisions, which must largely control the action of the Commission, demand our first consideration. Section 9 provides that "the rules and regulations promulgated by such Commission shall not conflict with the provisions of section 5 of this act." Section 5 so referred to provides first that the carrier shall furnish to all parties "*who may apply therefor as provided in this act suitable cars for the transportation of all kinds of freight in carload lots.*" The second provision of this section states that in case of car shortage, when the carrier can not supply the entire demand for cars for immediate use that "*then the carrier shall distribute its available equipment between the applicants in proportion to their respective requirements for immediate use.*" According to the first provision of this section 5, the duty to furnish coal cars does not arise under the Shippers' Bill until the Commission has acted pursuant to section 9 of that act, for the reason that

by such provision cars are to be furnished to parties "*who may apply therefor as provided in this act.*" Section 6 of the act which regulates the manner of applying for cars for carload shipments generally, specially excepts coal car distribution and delivery from the provisions of that section. Section 10 of the act quoted herein according to its terms, imposes penalties for failure to furnish coal cars, and becomes operative only on the conditions that the Commission has promulgated rules pursuant to said section 9, and that the carrier has failed to comply herewith. From these observations we conclude that the legislature did not intend that action under section 9 with reference to rules and regulations concerning applications for coal cars should conform to or be controlled by the first provision of section 5 noted above. The only other requirement of section 5 which must be observed in action under section 9 is that "*the carrier shall distribute its available equipment between applicants in proportion to their respective requirements for immediate use,*" and without discrimination between competitive and noncompetitive points.

Therefore, subject to the limitation that the distribution of cars shall be made without discrimination between shippers and shall be, in case of car shortage, in proportion to the respective requirements for immediate use, what are the powers and duties of the Commission under section 9? The first requirement of section 9 is that the rules and regulations adopted by the Commission shall "*prescribe the manner in which cars shall be applied for.*" This requirement does not conflict with the second provision of section 5 above noted, and therefore must be observed by the Commission.

The second requirement of section 9 is that the rules and regulations adopted by the Commission shall prescribe "*the manner in which the capacity and output of the mines shall be ascertained.*" The capacity of a mine may be one hundred cars per day, while its output may be only fifty cars per day, occasioned by short help, or many other reasons which could be suggested, and yet its requirement of cars "*for immediate use*" may be only twenty-five per day. These provisions of the statute may all be given effect and the Commission may properly make rules to control each of these questions. The maximum number of cars which a mine may require, or to which it is entitled for any particular day, is its requirements "*for immediate use*" not in excess of its capacity, if being operated to its capacity, and if not then not in excess of output. Therefore, it is essential to know the three elements to the end that car equipment in case of shortage shall not be idle, and



that each mine shall be served in turn to its capacity, with limitations only as to output and requirement of cars for immediate use. In car distribution under the act in such cases the output must be controlling over the capacity, and the requirement of cars for immediate use must control both the capacity and the output.

The third requirement of section 9 is that the rules and regulations adopted by the Commission shall prescribe "*the manner in which empty cars shall be distributed and delivered.*" This duty may be performed by the Commission in accordance with the requirements of section 5. That is, it may make rules and regulations for the distribution and delivery of empty cars "between the applicants in proportion to their respective requirements for immediate use."

The fourth requirement of section 9 is that the Commission shall adopt such other rules and regulations concerning such subject as shall be necessary to secure fair and equitable distribution of cars without discrimination so that each mine, in case of car shortage "*shall be secured the maximum amount of working time to which it is entitled after taking into consideration the capacity and output and shipping orders of all the mines and the available equipment on the line for use in their operation.*" This provision introduces an additional element to be considered in the distribution of cars. That is, each particular mine must have secured to it by the rules and regulations adopted by the Commission "*the maximum amount of working time to which it is entitled.*" This additional element of working time, however, is clearly defined and limited by the statute, which provides that the working time of each mine shall be determined after considering the "*capacity, output and shipping orders of all the mines, and the available equipment on the line for use in their operation.*" We conclude that the words "shipping orders," as used in this section, means exactly the same thing as the words "requirements for immediate use" as used in section 5, and that there is no conflict between the two provisions. We further conclude that it is the duty of the Commission, by rules and regulations, to secure to each mine, within a time to be prescribed by the Commission, the maximum amount of working time to which it is entitled; and the time to which it is so entitled must be determined by its demand for cars for immediate use as compared with the demands of all the mines on the line for cars for immediate use, and that no demand by any mine for cars for immediate use on any day shall be recognized in excess of the rated daily capacity of the mine. This construction gives effect to all the pro-

visions of the statutes and prevents unused mine capacity and unsold output from controlling demands for immediate use in the distribution of cars in case of shortage in equipment. The command of the statute is obligatory, and the Commission has no discretion in the matter. All we can do is to execute the same in the way plainly required.

The railway company contends that its method of car distribution and its practices in that regard are fair, equitable and non-discriminatory, and that the same should not be changed, or that if the Commission adopts rules the company's method and practices should be approved. We call attention to the requirements of section 9 upon this subject. As we construe that section, the Commission, on request, must adopt rules and regulations as herein provided, even though the company's method is not objectionable to the applicant or to the Commission. We may adopt the prevailing rules of the company, or promulgate new or different rules, but when requested to act we can not refuse for the reason that the prevailing rules are correct. This conclusion is founded upon section 10, heretofore set out. This section, as before stated, prescribes penalties for failure to furnish coal cars as provided in the act, and as required by the rules and regulations of the Commission made pursuant to the act. Therefore, penalties could not accrue under this section 10 until the Commission has acted under section 9, and this would be true, even though the company's rules were satisfactory to all the operators and were just and proper in every particular. The rules must be those of the Commission, not those of the company. No penalties can accrue for failure to furnish cars under the rules of the company. As the Commission in this application has determined that it will not approve the company's methods and practices in coal car distribution, it becomes necessary to examine the facts with reference to car distribution on that line, and it is but just to the company that we should indicate our objections to its present methods and practices.

The company did not make as explicit a showing of its method and practices in car distribution as was desired. The superintendent was the only officer present, and his information was limited, and the figures given by him were furnished him by his superiors without explanation to him as to the basis on which they were prepared. One of the principal operators was able to give generally the basis of distribution, as he had at one time been advised by the company, but he would not undertake to say that it prevails at this time. On account of the unsatisfactory showing in this proceeding,

we have concluded to examine other data bearing upon the subject which has come to the Commission from the respondent in other proceedings pending before it where the company was represented. In August, 1906, the general manager of the company and its general counsel filed with the Commission in the car service proceeding, then pending before the Commission, a statement of the company's method of coal car distribution in force at that time. On December 9, 1906, the present superintendent was examined by the Commission upon the subject of coal car distribution in force at that time. This examination was had as a part of a general inquiry then conducted by the Commission upon the subject of the company's method and practices in coal car distribution. That investigation was never determined for the reason that the law did not then authorize the Commission to make rules upon the subject. According to the general manager's and general counsel's statement, the method adopted by the company in February, 1903, and since modified, is to ascertain the total output of each mine in cars for a month, and from that obtain the average daily car output, and then assign to each mine thirteen times as many cars as equals its daily output. This is done upon the theory that the average time for the return of coal cars to the mine is thirteen days after loading. The mine is charged with the cars when billed out and given credit as soon as the cars are returned to the junction point, if billed off the line, and as soon as unloaded and released if billed on the line. When the original allotment is exhausted the mine thereafter receives cars only upon the return of the empties previously loaded by it and charged to it. It does not receive the same car necessarily, but its right to cars is dependent upon the debit and credit system as here indicated. There is no period of settlement of the debit and credit account, but the same goes on indefinitely from month to month. This is substantially the method indicated by the operator who professed knowledge of the subject. The present superintendent in the present hearing submitted a statement of the quota for the several operators dated November 21, 1906, and represented that the same had been in effect since that time, and it will be set forth hereafter. The present superintendent on December 9, 1906, upon his examination, then presented a list of percentages which he testified was then in effect and had been since November 1, 1906, for the distribution of coal cars, and which will be set forth hereafter. He at that time had no knowledge of the quota which he furnishes in this hearing. The Commission in its inquiry in December, 1906, went into the subject of how the distribution had been

worked out, and that data will also be set forth. The present superintendent also testified in the present hearing as to the present daily capacity of the several mines as he had arrived at it from his observations of their operation, and in the distribution of equipment thereto from his office. Calculations of that daily output for thirteen days is also set forth for comparison with the quota now in force. These several statements and the calculations of the Commission, and the data so obtained by it, are as follows:

MINE OPERATOR.	Quota, Nov. 21, 1906, Still in Effect.	Per Cent. for Dis- tribution Nov. 1 to Dec. 9, 1906.	Car Distribution for Nov., 1906, upon Per- centages Last Column		*Present Daily Capacity in Cars as per Superin- tendent.	Necessary Quota for 13 Days. Operations on Present Daily Capacity as per Sup't.
			Cars Due.	Cars Billed.		
United Fourth Vein (7 mines)	705	21	1,124	1,182	131	1,703
Dering (3 mines) .....	245	8	428	359	85	1,105
Southern Indiana (6 mines).	796	24	1,284	1,558	144	1,872
Indiana Southern (2 mines) ..	400	12	642	442	43	559
O'Gara Company .....	133	4	214	144	15	195
Green Valley Coal Co. ....	200	6	321	288	28	364
Kettle Creek Mining Co. ....	80	2	107	188	22	286
Jasonville Coal Co. ....	80	2	107	66	12	156
Letzinger Coal Co. ....	45	2	107	83	10	130
Calora Coal Co. ....	103	2	107	191	23	299
P. & I. Mines .....	50	2	107	50	10	130
Coalmont Coal Co. ....	153	5	268	166	22	286
Coal Bluff Mining Co. ....	228	8	428	411	40	520
Queen Coal Co. ....	22	} 1	54	47	4	52
Union Mines .....	10				1	13
Total .....	3,250				590	7,670

This company has forty-five hundred coal cars, counting those in bad order, and as we see from the quota now in force, only 3,250 of these cars are assigned to the coal trade. The superintendent states that the residue of the equipment is assigned to other service. There should be a rule requiring the assignment of this particular equipment between the coal service and the other service daily upon the basis of "requirements for immediate use," as required by the statute. The method of coal car distribution now practiced by the company is in violation of the statutes quoted and could not, in the judgment of the Commission, be sustained at the common law. It may make car chasers out of each coal operator, as claimed by counsel, and encourage shippers of coal to seek nearby markets in preference to markets off the line. The law, however, of this State requires the cars of the company to run to such points as it

\*Average daily car supply for September, 1907, 190 cars.

publishes through rates and routes. Can it be said that the company may lawfully limit the shipper's right to receive a second or third car, needed in his business, to a time when the car carrying some former shipment from the same point has been unloaded if loaded to the home line, or returned to some junction point if loaded off the line? That is what this rule does. In our judgment, it is and always has been indefensible in law. It is the business of railroads to furnish facilities for transportation. It is their business to expedite their traffic and hasten the return of the equipment if needed. This is the service for which they are allowed to make charges. None of these duties devolve upon the shipper. In our judgment, this rule contravenes the statute requiring cars to be supplied in accordance with the "requirements for immediate use," and also those statutes which forbid discrimination between individuals and localities. No rule, in our judgment, will meet with judicial approval which, to any material and harmful degree, tends to circumscribe the market of coal producers on this line, or which gives to one locality an undue preference over another in being served by the coal producers on this line. Such rules and regulations are in restraint of trade, and the free movement of commerce, and should not be allowed.

There was much said concerning the fact that the company owns substantially all the stock of the Southern Indiana Coal Company, which is the largest operator on its line. We do not believe it good policy for a carrier to be engaged in the production of tonnage which it must carry; however, as the law now is the company may lawfully do so, and this coal company is now entitled, under the law, to just the same rights, no more and no less, as any other operator. Much was said concerning discrimination by the company in the operation of its rules in that it favored the coal company whose stock it owns, and certain other coal companies whose officers were interested in the stock or securities of the railroad company. What has happened in the past in this regard is of no controlling force in this proceeding, which looks only to the future, and we give the same no further consideration in this proceeding.

It has not been the practice of this company to include in the daily car allotment to any particular mine such foreign cars as may have come on to the line specially consigned to the mine receiving the same, to be loaded and returned to the foreign line and destined to some point on or off that line. In defense of this practice, the company and the operators favoring such practice, claim that the foreign cars are obtained through the efforts of the operator, and

that he is entitled on that account to the advantage given which accrues from his efforts. In practice the operator makes a requisition on a foreign line for cars and files it with the company. The company presents it to its connection, or to the foreign line, and when the cars arrive at the junction point they are received and handled in the same manner as other interchange cars, and the per diem charges are paid by the company. The only difference is that they are delivered to the particular mine making the requisition the same as they would have been delivered to an elevator or a brick yard making a like requisition. We think the cars should be assigned to the particular mine when they are received on such a requisition, but that they should be included in the total of the available equipment on the line on the date assigned, and should be included in the allotment that day due the mine receiving the same. This practice is so clearly just, fair and legal as to forbid further consideration or discussion.

Logan Coal Co. v. Penna. R. R., 154 Fed. 497;  
 U. S. v. Baltimore & Ohio R. R., 154 Fed. 108;  
 R. R. Com. of Ohio v. the Hocking Valley Ry. Co., I. C.  
 C., July 11, 1907.

The same rule must also be held to apply for like reasons to foreign cars from connecting lines consigned to some mine or mines on the line for fuel coal for the connecting lines' use.

In each of these cases, where foreign cars come on the line upon requisitions from particular mines, to be loaded with commercial coal, and where foreign cars come on the line consigned to special mines for fuel coal for foreign lines, such cars must all be delivered to the particular mines entitled to the same, even though by so doing their quota for the day will thereby be exceeded, and in such cases the advantage thus temporarily obtained must be corrected in the manner provided in the rules which we shall promulgate, and in case the cars so delivered equals or exceeds the allotment of cars that day due the mines receiving the same then the remaining equipment for use on the line must be distributed on a percentage which excludes such mines.

In case any operator should in the future acquire private cars for use at his mines, we are of the opinion that they should be handled by the company and charged in the total equipment and to the mine owning the same when distributed in the manner indicated with reference to foreign cars acquired upon requisition and foreign cars for fuel supply for connecting lines.

The question of what is just, fair and legal with reference to the cars used for company fuel has given the Commission considerable concern, and the conclusion announced is founded largely on our statute and what seems to have been the prior practice of the company, and many other coal carrying roads. As we read the cases no court has directly decided the question. There are reasons which sustain each theory. In a sense the company, by furnishing such cars, enables the mines to operate and thereby it performs for the mine a transportation service as required by the statute. In the sense that it uses such cars to transport its own fuel coal from the mines to its coal docks it does not perform a transportation service as a common carrier. We have determined that under the peculiar terms of our statute that cars set to mines for company fuel are to be included in the "*available equipment on the line for use in their operation.*" While it is our judgment that cars for company fuel should be included in the total available equipment, and should be charged to the mine receiving the same as a part of its daily allotment, yet in case the available car supply is only equal to the company's demand for fuel that then the company may lawfully assign all the available cars to such mines as furnish the company fuel. No rule would be just, fair or legal which would in any manner deprive the company of its right to first supply its own necessities. It can not serve the public until it is supplied with fuel, and it must be permitted, as other parties, to purchase where it chooses and to have the first use of its facilities for handling the same.

The coal car equipment of the company is now of uniform capacity, and for convenience we have concluded that distribution should be made upon a car basis. At any time when the coal car equipment of the company changes so that less than 75 per centum is of uniform capacity then the basis of distribution should be changed from a car to a tonnage basis.

Many of the difficulties which the operators on this line have had to contend with in their car distribution have grown out of the fact that there has been no publicity of ratings, of capacity, of output or of cars furnished. No one knew what his rating was or what his neighbor's was or when he would receive cars or upon what conditions. Our investigation shows that all roads doing a large coal business keep all this information available and subject to the inspection of operators. Therefore, we have concluded to require a record to be kept at Terre Haute showing all the facts, and subject to inspection at any time by at least one representative of each

operator. The form for this record will be left to the company to prepare and submit to the Commission for its approval.

The evidence has not been such that the Commission can determine the capacity or the output of the several mines, and in response to the command of the law, which requires us only to make rules and regulations as to the "manner in which the capacity and output of the mines shall be ascertained," we have concluded that the greatest output of the several mines on any day of eight hours' work within the last year shall be taken as the mine's capacity for the first month's operation under the Commission's rules: Provided, That upon application by any operator to the company stating that improvements or changes have since been made, the company shall furnish sufficient cars to make a trial day's run during the first month's operations under those rules, and in such case the operator shall receive notice of the day's trial between eight and nine o'clock p. m. of the day preceding the trial. After the rules of the Commission have been in operation for one month then the rated daily capacity of each mine shall be the greatest product of one day's work of eight hours during the preceding month.

The daily output of each mine for the first month under the Commission's rules shall be ascertained by taking the whole number of working hours for the month of January, 1907, and the total cars loaded, and reducing the same to working days of eight hours each, and thereby arrive at the average output in cars per day. After the rules of the Commission have been in operation for one month the daily output of each mine shall be determined by reducing its total hours of work for the preceding month to days of eight hours each and applying the same to the total output in cars for the month, thereby obtaining the average daily output.

The evidence shows conclusively that it is not profitable to operate a coal mine for a few hours. The operators were unanimous in the opinion that it was more desirable to operate a full day and be idle for two days than to work three parts of days. We have, therefore, concluded that it is better policy to require cars to be distributed, in case of car shortage, so as to permit mines when started to operate for a full day, unless the operator shall choose otherwise, and that any advantage which may temporarily accrue on account of this arbitrary division of time between the mines must be corrected weekly, or as soon thereafter as conditions will permit.

Much was said at the hearing concerning the rights of an operating company owning several mines to close part of them and have



assigned to those operated all the cars to which the entire group would be entitled. Such operators claim that in case of car shortage it is more profitable to cease operating a portion of their mines, and in the meantime keep them in physical condition for operation, and during such time operate the other mines such of the time as the total car supply will allow. In other words, it is more profitable to operate one mine six days successively than to operate six mines one day each, and in the mean time keep the other five mines in physical condition for operation. The Commission recognizes this condition and the result which follows. We think the practice should be allowed, within certain reasonable limitations which we learn are imposed by other companies in like cases. No advantage in cars can come to such an operator as the result of such practice, nor can less service in cars come to other operators on account of such practice. Suppose an operator owns three mines, all in condition for operation, each having a daily capacity of twenty-five cars and shipping orders daily for the entire output, but on account of car shortage the company can supply but one-third of the demand for cars. The entire demand for six days would be 450 cars, one-third of which is 150 cars, or two full days for each mine, or six full days for one mine. It can, therefore, make no possible difference to the other operators whether each mine works two days or one of them works six days. In neither case can the demands of other operators be increased or diminished.

As the laws require cars to be distributed in proportion to the "requirements for immediate use," we have concluded that the most simple rule we can make regulating the manner in which cars should be applied for is to require the company to daily enter upon its records as the cars required for immediate use by each mine a number equal to the rated capacity of the mine, and that the same shall be taken as the operator's application for cars, unless the operator shall, not later than 7 o'clock p. m., notify the company at Terre Haute by 'phone that his requirements for the next day will be less than the rated capacity of the mine, and in such cases the company shall enter only the number thus indicated.

The Commission having heard the evidence in the above cause and the argument of counsel, and being fully advised therein does now determine the same.

It is therefore ordered by the Commission, That there be now adopted and promulgated by it certain rules and regulations for the distribution by the respondent, Southern Indiana Railway Company, of cars for the use of coal mines on its lines in Indiana, and

that said respondent, and all other persons, shall put such rules into effect at six o'clock p. m. on the 31st day of October, 1907, and continue thereafter to observe the same.

It is further ordered, That such rules and regulations so now adopted and promulgated shall be and are the following:

Rule 1. Such company shall furnish to all coal mines on its line in this State suitable cars for the transportation of coal taken from such mines. Cars shall be distributed to such mines in such numbers as will meet their requirements, when the company has suitable available equipment so to do. When the equipment is not available to supply all demands, then cars shall be distributed and delivered in the manner required by these rules.

Rule 2. Such company shall daily divide the equipment on its line, available for carrying coal, between the coal mines and all other points of shipment on its line where coal carrying equipment is needed for other than the coal service. Such division shall be made upon the basis of the total requirements for immediate use.

Rule 3. Such company shall keep at Terre Haute a record subject to inspection at all times by a representative of each mine operator on the road. Such company shall daily enter in such record the rated daily capacity, rated daily output, hours worked, care required, cars delivered, cars loaded, cars billed, empties on hand, with reference to each mine on its line, also company fuel cars, system cars, foreign cars and private cars available for use on the line. The form for such record shall be prepared by the company and submitted to the Commission for approval within thirty days.

Rule 4. Such company shall make all mine ratings and car distribution on a car basis. When less than 75 per centum of the coal car equipment of the company is of uniform carrying capacity, then the company shall change such ratings and car distribution to a tonnage basis.

Rule 5. Such company, for the first month's operation under these rules, shall determine the daily capacity of each mine on its line by determining the greatest number of cars loaded by such mine during any day of eight hours' work since November 1, 1906. In case any operator states in writing to the company that improvements or changes have since been made he shall be given cars for a trial day's work of eight hours, and notice thereof between 8 and 9 o'clock p. m. of the day preceding the trial. After the first month, the rated daily capacity of each mine shall be the greatest number of cars loaded in any day's work of eight hours during the preceding month.

Rule 6. Such company shall determine the daily output of each mine on its line for the first month's operations under these rules by taking the whole number of working hours for the month of January, 1907, and the total cars loaded and reducing the same to working days of eight hours each, and thereby arrive at the average output in cars per day. After the first month the company shall determine the daily output by reducing the total hours worked by it during the preceding month to days of eight hours each and applying the same to the total cars loaded for the month, thereby obtaining the average daily output.

Rule 7. Such company shall daily include in the total equipment on its line available for the operation of such mines all system coal cars that day apportioned to the mining district, all foreign coal cars available for use in the district, all foreign cars specially consigned to or requested by particular mines for loading with commercial coal, all foreign cars specially consigned to particular mines for loading with fuel coal for foreign lines, and all private coal cars owned by mines on the line.

Rule 8. Such company shall daily assign all foreign cars specially consigned to or requested by particular mines, for loading with commercial coal, all foreign cars specially consigned to particular mines for loading with fuel coal for foreign lines, and all private cars owned by mines, to the particular mine or mines entitled thereto, and shall charge the same in the allotment of cars due such mines on such day. Such assignments shall be made although the same will exceed the allotments that day due the mines receiving the same, and in such case the residue of the equipment shall be allotted on a basis which excludes such mines.

Rule 9. Such company shall daily assign cars for its fuel coal to such mines as supply the same, and the cars so assigned shall be included in the allotment each day due the mines receiving the same. On any day when the car supply is such that the allotment due the mines furnishing company fuel coal is not equal to the company requirements, then the company shall be first served to the extent of its requirements.

Rule 10. Such company shall daily carry on its records at Terre Haute, against each mine, a demand for cars for daily use equal to the rated daily capacity of the mine unless the operator shall, not later than 7 o'clock p. m., notify the company by telephone, or in writing, that his requirements for the next day will be less, in which case the company shall enter the number indicated.

Rule 11. Empty cars held over and loaded cars unbilled at 7 p. m. of each day shall be by the company included in available equipment for next day's use and charged to the mine having the same, and this shall be done from day to day when the mine operates, until all are billed out. If the mine does not operate, cars may be removed and assigned to other mines.

Rule 12. The company shall deliver to each mine by 7 a. m. of each day, when it will be allowed to work, cars sufficient to start the mine and deliver then or during the day the full allotment due the mine and in such order as to not interfere with its operation.

Rule 13. Mines closed down for repairs or other cause, except as provided in rule 14, for one week or more will be by the company eliminated from the record of cars required for immediate use, until reopened. When reopened its capacity shall be determined as provided in these rules.

Rule 14. If the average car supply for the preceding thirty days has been below 60 per cent. of the requirements of all the mines, operators having more than one mine, upon notice in writing to the company, may close down part of such mines, during such short car supply, and during such time the company shall assign to the mines operated all the cars to which all the operator's mines shall be entitled, not in excess, however, of the capacity of the mines operated. Mines closed must be kept fully equipped, except as to live stock, during temporary suspension. When

the average car supply for thirty days has been 60 per cent., or more, of the total requirements, then the company by notice in writing shall require the operator to reopen the idle mines within ten days, and on failure so to do the cars due such mines so closed down shall be eliminated from the operator's requirements for immediate use.

Rule 15. The established daily capacity of the mine, modified, if necessary, by the operator's daily requirements for immediate use, shall be the basis of car distribution. If the cars available for use do not equal the total requirements the company shall so distribute the same as to give to each mine in turn a full working day of eight hours, unless the operator signifies a preference to start for less than a full day. In the latter case cars shall be assigned to such operators according to their percentages.

Rule 16. Such company at the end of each week shall state an account upon its records of the week's requirements and deliveries, and show the car losses, if any, sustained by any mine on account of the requirements of rules 8, 9 and 15, and the losses so shown shall be corrected the first of the next week, or as soon as the mines sustaining the loss are next allowed to run.

Rule 17. Such company shall arbitrarily assign, from its coal car equipment, before distribution, a reasonable number of cars for the development of new mines. When the daily capacity of a new mine equals the capacity of the mine of lowest capacity now operating on the line, such new mine shall then be included in the record of car distribution.

Rule 18. Each operator shall, by telephone, furnish to the company at Terre Haute, each day, between 5 and 6 o'clock p. m., all the information necessary to enable the company to keep its records and distribute cars as required by these rules, and the information so given shall, if required by the company, be confirmed in writing by 10 a. m. of the following day. The company shall daily notify the operators by phone, not later than 8 o'clock p. m., what the action of the company will be in car distribution for the ensuing day.

**No. 189.—Ex parte, The Baltimore & Ohio Railroad Company.**

1. This was an application by the petitioner for the approval of a system of block signalling to comply with the requirements of the act of the General Assembly approved March 9, 1907. The Commission's Chief Inspector having gone over the petitioner's line and having examined the plans proposed reported the same to be satisfactory, whereupon the same were approved and are now being installed.

No. 190.—**Commercial Club of Marion, Indiana, v. Pittsburg, Cincinnati, Chicago & St. Louis Railway Company, Toledo, St. Louis & Western Railway Company, and the Chicago, Cincinnati & Louisville Railway Company.**

Augustus Condo, for petitioner.  
S. O. Pickens, for the Pan Handle.  
Braden Clark, for the Clover Leaf.  
R. P. Dalton, Supt., for C., C. & L.

1. This was a petition by the Commercial Club of Marion, Indiana, for an order requiring the respondents to interchange carload traffic at Marion, Indiana.

2. The cause was heard by the Commission at Marion on November 6th and was subsequently argued orally at the capitol, and was subsequently considered and determined by the Commission in the manner indicated in the following opinion by:

Hunt, Chairman—The petitioner, the Marion Commercial Club, asks that the respondents, the Pittsburg, Cincinnati, Chicago & St. Louis Railway Company, the Toledo, St. Louis & Western Railroad Company, and the Chicago, Cincinnati & Louisville Railroad Company, be required to interchange freight with each other in carload lots at the city of Marion, Indiana.

To this petition the several respondents answer, in substance, as follows: The Pittsburg, Cincinnati, Chicago & St. Louis Railway Company alleges that the railroad of the Chicago, Cincinnati & Louisville Railroad Company does not cross or in any way connect with this respondent's railroad at the city of Marion; that the track referred to in the petition as a belt line is not a line of railroad, but a terminal track or switch belonging to this respondent and the respondent the Toledo, St. Louis & Western Railroad Company, constructed for the benefit of certain manufactories and industries located on the line of said railroads, and is used by these respondents for switching cars to and from said manufactories and industries; that there are numerous manufactories and other industries located upon said terminal track or switch and upon other switches and side tracks owned by this respondent, and connected with this line of railroad at Marion, which furnish carload traffic to be carried over the lines of this respondent; that there are no manufactories or other industries located upon the tracks of said Chicago, Cincinnati & Louisville Railroad Company at the city of Marion;

that it would be unfair and unjust to this respondent to require it to interchange freight with the Chicago, Cincinnati & Louisville Railroad Company at the city of Marion, and that there is no necessity for such interchange. Wherefore, this respondent asks to be relieved from constructing an interchange track between its lines and the road of the Chicago, Cincinnati & Louisville Railroad Company, and from interchanging freight in carload lots with the said Chicago, Cincinnati & Louisville Railroad Company at the city of Marion, Indiana.

The Toledo, St. Louis & Western Railway Company answers that it has no track connections with the Chicago, Cincinnati & Louisville Railroad Company at the city of Marion and can not interchange freight with said company; and also alleges that it is prohibited by its contract relations with the owners of the belt line referred to in petition from constructing or operating any such connection.

The respondent, the Chicago, Cincinnati & Louisville Railroad Company, answers that it has ever been and is now willing to make connection with and interchange freight with its co-defendants, the Pittsburg, Cincinnati, Chicago & St. Louis Railway Company and the Toledo, St. Louis & Western Railway Company, or either of them, under any reasonable terms, and especially under such reasonable terms as may be prescribed by the Railroad Commission of Indiana.

This case was heard by the Commission at Marion, Indiana, November 6, 1907, and the Commission subsequently heard argument by counsel in the rooms of the Commission in the State House at Indianapolis, Indiana. The facts developed at the hearing are substantially as follows:

The Chicago, Cincinnati & Louisville Railroad Company operates a comparatively new line of railroad into and through the city of Marion, Indiana, it being the last railroad to enter that city, the Pittsburg, Cincinnati, Chicago, & St. Louis Railway Company, the Cleveland, Cincinnati, Chicago & St. Louis Railway Company, and the Toledo, St. Louis & Western Railway Company each having lines of railroad entering and passing through said city of Marion. At the time of the construction of the Chicago, Cincinnati & Louisville Railroad into the city of Marion, it built a connection from the semi-belt line, which is a connecting track owned jointly by the Toledo, St. Louis & Western Railway Company and the Pittsburg, Cincinnati, Chicago & St. Louis Railway Company, to its own line, which was used for the purpose of moving construction

material of said Chicago, Cincinnati & Louisville Railroad. It is now used for interchange of through business, not destined to Marion, between the line of the Chicago, Cincinnati & Louisville Railroad and the Toledo, St. Louis & Western Railway Company, the Pittsburg, Cincinnati, Chicago & St. Louis Railway Company declining to permit even through traffic to be interchanged between its line and the Chicago, Cincinnati & Louisville Railroad.

There are eleven factories located on the Canton switch of the Pittsburg, Cincinnati, Chicago & St. Louis Railway Company, and seven on the remainder of its rails in Marion, making a total of eighteen factories located on its lines in said city. In addition to these, there are coal yards, ice houses, brick and cement yards, making a total of about twenty-five industries located on the rails of this road in the city of Marion. This company owns all but one of these switches and sidetracks, which one is owned jointly with the industry located thereon. There are about fifteen factories located on the sidetracks of the Toledo, St. Louis & Western Railway Company, but none on the Chicago, Cincinnati & Louisville Railroad, though there is a coal yard on this road which has a sidetrack to its rails. The Pittsburg, Cincinnati, Chicago & St. Louis Railway Company interchanges traffic with each of the roads entering Marion, except the Chicago, Cincinnati & Louisville Railroad, and the Toledo, St. Louis & Western Railway Company interchanges all classes of traffic with all the railroads entering Marion, except the Chicago, Cincinnati & Louisville Railroad, with which road it interchanges only through traffic.

The semi-belt line in question was built under the separate ownership of the Toledo, St. Louis & Western and the Pittsburg, Cincinnati & Chicago railway companies. In 1889 the business interests of the city of Marion desired to have better sidetrack facilities, facilities that would be adequate to the growing business demands of the city, and a right of way was donated to the Pittsburg, Cincinnati, Chicago & St. Louis Railway Company for the construction of a certain piece of track, and like grants of ground were made to the Toledo, St. Louis & Western Railway Company for track constructed by it, and these two lines of track were united and formed a connection between the Toledo, St. Louis & Western and the Pittsburg, Cincinnati, Chicago & St. Louis railway companies. These tracks were built at the expense of the respective owners. Subsequently, it appeared to the interests of the two companies to own such tracks jointly, and this joint ownership was consummated in an agreement adjusting the expense of con-

struction of the tracks to a joint basis of half and half. The expense of operation was to be apportioned upon the wheelage business. Additional tracks required from time to time were to be owned jointly by the two companies, and neither company was to permit the use of such tracks by other carriers without the consent of the other.

The Toledo, St. Louis & Western Railway Company, under its construction of the contract, interchanged traffic with the Chicago, Cincinnati & Louisville Railroad Company via this track, and suit was brought by the Pittsburg, Cincinnati, Chicago & St. Louis Railway Company to enjoin the Toledo, St. Louis & Western Railway Company from permitting such interchange under the terms of the contract between the joint owners of this track restricting the use thereof. This suit was compromised by making a supplemental contract more clearly defining the restrictions imposed as to use of track by other lines, since which time the Toledo, St. Louis & Western Railway Company has refused to interchange with the Chicago, Cincinnati & Louisville Railroad Company on Marion traffic.

It is claimed by the respondents, the Pittsburg, Cincinnati, Chicago & St. Louis Railway Company and the Toledo, St. Louis & Western Railway Company, that they can not interchange traffic because of this contract and because the Chicago, Cincinnati & Louisville Railroad Company has no pecuniary interest in this track.

We do not regard either of these contentions as sound. A common carrier may not provide by contract that it will only interchange traffic with certain railroads at a given point, and that it will not interchange traffic with other carriers similarly situated, especially when such contract is in contravention of public policy and works an unnecessary hardship upon the public, to whom the carrier, under its charter and the laws of the State, owes a duty. Nor is the fact that the Chicago, Cincinnati & Louisville Railroad Company did not participate in the construction of the connection in question a valid reason for refusing it the use of this connection when engaged in the business of a common carrier.

Section 4, chapter 231, Acts of 1907, approved March 11, 1907, provides as follows:

All carriers subject to the provisions of this act shall deliver to any consignee on his private track, or track used by him for loading or unloading, or on their public delivery track and shall receive from any connecting carrier, at any terminal point in this state, for the purpose of delivery to points located on its line at such terminal, or to points reached over or through its line at such terminal, all carload freight tendered it by any



such connecting line, and shall deliver the same to the consignee on his private track, or on its tracks, or to the connecting line on its tracks at such terminal, within twenty-four hours after the same is tendered. In case any such carrier shall fail to so deliver any such car it shall forfeit and pay to the consignee the sum of five dollars for each twenty-four hours or major part thereof that it shall fail to make delivery as required by this section: Provided, That wrecks or strikes, or accident to tracks shall be a sufficient excuse for failure to make such delivery. The sum due on account of any such forfeiture may be deducted from the freight charges following any such shipment: Provided, That the Railroad Commission of Indiana, after a full hearing of all parties interested, may relieve any such carrier from so switching carload freight at terminal points, which is to be delivered upon its public delivery tracks at such terminal when it appears that the facilities of such carrier at such point are only sufficient to care for the business originating and terminating on its line at such point: And, provided, also, That every such carrier shall be entitled to impose and collect a reasonable transportation charge for the performance of the service required by this section.

It is the imperative duty of the carriers to interchange traffic with connecting lines of road at terminal points, unless relieved from so doing by the Railroad Commission of Indiana. The Commission may relieve a carrier from performing this service on its public delivery track when it appears that such carrier at such point has only sufficient facilities to care for the business originating and terminating on its line, and in this case it is not contended that there is any lack of facilities. One of the respondents in this case has asked to be relieved from constructing an interchange track at Marion, but the Commission now declines to grant such relief, believing an interchange of traffic between these respondents necessary to the transaction of the business of the shipping interests of the city of Marion, and that such a track now exists.

We think there can be no question about the duty of these respondents under this statute, but even without this statute the power of the Commission to require this interchange is ample under the provisions of section 3 of the Railroad Commission act, approved March 9, 1907, which section prescribes the powers and duties of the Commission, that part of it applicable to this case reading as follows:

The power and authority is hereby vested in the Railroad Commission of Indiana, and it is hereby made its duty as hereinafter provided to supervise all railroad freight and passenger tariffs, and to adopt all necessary rules and regulations to govern car distribution and delivery, train service and accommodations and demurrage rules and charges and for car service or the transfer and switching of cars from one railroad to another at junction points, or where entering the same city or town, and to super-

vise charges therefor; to require and supervise the location and construction of sidings and connections between railroads; to supervise the crossing of the tracks and sidetracks of railroads by other railroads now in process of construction or extension, and to prescribe the terms and conditions and manner in which such crossings shall be made; \* \* \*

It is contended by the respondents that Marion is not a junction point within the meaning of the law. We do not grant this contention, but whether granted or not it is immaterial, as the Commission has power to require interchange of business between railroads, not only at junction points, but also where railroads enter the same town or city.

The duty of interchanging traffic at Marion is imperative under the law, and the respondents should recognize this fact and at once comply with the statute. Much of the right of way on which connecting tracks between the Pittsburg, Cincinnati, Chicago & St. Louis and the Toledo, St. Louis & Western railways was laid was donated by the business men of Marion. This right of way was not donated to these roads in order that they might have a monopoly on this track and forever close the doors against additional shipping facilities for the city of Marion, but were made in order that these facilities might be unrestricted and unlimited. The Marion Commercial Club had offered inducements to industrial concerns to locate in their city on account of transportation facilities and the assurance that adequate interchange of traffic could be had. Upon these assurances industries have located there, which are now dependent on the use of the Chicago, Cincinnati & Louisville Railroad as an avenue of transportation either in or out of the city of Marion. Traffic arriving via the Chicago, Cincinnati & Louisville Railroad at Marion in carload lots can not be switched to sidetracks of factories, but must be drayed from the freight depot of the said railroad to the industry to which it is destined. It was the contention of the business men of Marion that this worked a hardship upon them, and that the commercial interests of their city demanded proper interchange of traffic between these respondents.

We think it will be admitted by all parties interested that no physical difficulties are presented; that there are adequate and safe facilities for the prompt interchange of traffic at this point between the several respondents herein, and an order will be entered requiring that such interchange be made, each of said respondents being permitted to make a reasonable transfer or switching charge for services rendered.

**No. 191.—B. Johnson & Son v. The Southern Railway Company.**

1. This petition concerned the rates on lumber from points on the respondent's line to Terre Haute, Indiana. After the summons was served the respondent made a tender of rates on lumber, which were acceptable to the petitioner, whereupon, by leave of the Commission, the petition was dismissed.

**No. 192.—Ex parte, The Lake Shore & Michigan Southern Railway Company, and the Cleveland, Cincinnati, Chicago & St. Louis Railway Company.**

1. This was an application by these lines for an interlocking plant at their crossing at Goshen, Indiana. The plans were submitted to the Commission's engineer, and upon his report being filed the same was approved, and subsequently the construction and operation of the plant were examined by the Commission's engineer, and upon his report being filed the plant was approved and the companies authorized to operate the crossing without stopping after December 10, 1907.

**No. 193.—Ex parte, The Cleveland, Cincinnati, Chicago & St. Louis Railway Company.**

1. In this case the petitioner sought the approval of plans for an interlocking plant at Carbon, Indiana. After receiving the report of the Commission's engineer thereon the plans were approved and the plant is in course of construction.

**No. 194.—Cleveland, Cincinnati, Chicago & St. Louis Railway Company v. The Town of Parker City, Indiana.**

1. This was an appeal by the Big Four Railroad from an ordinance enacted by the board of trustees of the town of Parker City requiring certain street crossing protections. The appeal was referred to the chairman of the Commission, who visited Parker City and succeeded in making an adjustment of the difficulties, as shown by the following report:

"To the Railroad Commission:

Gentlemen—An ordinance was passed by the town board of Parker City, Indiana, requiring the Cleveland, Cincinnati, Chicago & St. Louis Railway Company to establish a gate at the crossing of the main street in the town of Parker City. From this resolution

the railway company appealed. The case was assigned to the chairman of the Commission for hearing at Parker City on October 18th.

I went to Parker City, met E. M. Costin, superintendent of the Cleveland Division of the Big Four Railway Company, Mr. Shillinger, engineer of maintenance and way, and Frank L. Littleton, attorney; also J. W. Newton, attorney for the town of Parker City, and the members of the town board, and had an informal conference.

Statements were submitted showing the need of some protection at this crossing; but, after the matter had been discussed and the facts brought out, the members of the town board concluded that they would prefer to have warning bells at three of the streets of the town than to have gates at one street. Upon this agreement, the ordinance requiring the establishment of a gate was repealed, and an ordinance passed requiring warning bells to be established at three street crossings in the town. And the Commission is in receipt of a letter, under date of December 9th, from Frank L. Littleton, counsel for the Cleveland, Cincinnati, Chicago & St. Louis Railway Company, asking that the appeal of his company from the original resolution be dismissed, and advising the Commission that warning bells have been established at the several street crossings in Parker City as per agreement. The Commission is also in receipt of a letter from the clerk of the town board of Parker City, advising that the warning bells have been established as per agreement. and the matter is now closed.

Respectfully submitted,

UNION B. HUNT,  
Chairman."

**No. 195.—Ex parte, The Indianapolis & Louisville Railway Company, and the Evansville & Indianapolis Railroad Company.**

1. This was an application by these companies for the approval of plans for an interlocking plant at the crossing of their lines at Clay City. The plans were submitted to the Commission's engineer, and upon his report being filed the same were approved and the plant is now in course of construction.

**No. 196 —J. B. Bowen and Others v. The Cincinnati, Hamilton & Dayton Railroad Company and its Receiver.**

1. This was an application by the petitioners, who are citizens of Eel River township, in Hendricks County, Indiana, to require

the respondent to remove the overhead highway bridge crossing its line in that township and to construct a grade crossing. The case was heard informally, and after considerable negotiations the whole matter in dispute was amicably adjusted, as shown in the following report to the Commission.

## STATE OF INDIANA.

INDIANAPOLIS, IND., Dec. 12, 1907.

To the Railroad Commission of Indiana:

I beg leave to report that I have finally adjusted and settled to the satisfaction of all parties concerned, the matter of the formal petition of citizens of Hendricks County, indorsed by the county commissioners, for separating the grade of the North Salem and Danville gravel road and the C., H. & D. railroad and for making the crossing of this highway over this railroad near North Salem, convenient and safe for the traveling public.

When the C., H. & D. railroad was inspected our chief inspector recommended the elevation of this bridge in order that the same might be twenty-one feet above the level of the rails. It was necessary to raise the bridge three feet and this left the grade of the gravel road approaches on both sides, not only steep but narrow. A member of the county commissioners came before us and insisted also that the floor of the bridge was not in good repair, that the supports were in bad shape, that it did not cross the railroad at right angles and that the grade of the highway approaches were not only too steep, but very much too narrow.

After frequent and repeated conferences and letters between the office of this Commission and the superintendent's office of the C., H. & D. railroad, and after several conferences between the representatives of the county commissioners of Hendricks County and the railroad authorities, it was agreed that the railroad company should put in scrapers and decrease the highway grade by building up an embankment extending some distance on the highway on each side of the bridge. When this work was finished it was still unsatisfactory to the county commissioners, because they said that the grade was still too steep and too narrow and that it would need to be well graveled before it could be used. The railroad company agreed at first to haul four carloads of gravel to be used on this grade, but the grade was so much lengthened and widened that these were found insufficient. It was finally agreed and settled on

yesterday, the 12th day of December, that the railroad company should haul and furnish twelve carloads of gravel instead of four, about 200 yards of gravel in all, and that the county commissioners, in consideration that part of this gravel was to be placed on the highway at some little distance from the bridge, would haul it from the crossing to the bridge approaches and put it on the approaches and would also pay the expense of loading six cars of this gravel, expense not to exceed the amount of \$11.00.

This seeming to be a satisfactory consummation of a matter which has been very pressing, and very important to the people of Hendricks County, to the satisfaction of all concerned, acting for the Commission, I gave it the approval of the Commission and closed this case.

All of which is respectfully submitted.

W. J. WOOD,  
Commissioner.

No. 197.—**Cincinnati, Bluffton & Chicago Railroad Company v. The Ft. Wayne, Cincinnati & Louisville Railroad Company, and the Lake Erie & Western Railroad Company.**

Eichhorn & Vaughn, for the petitioner.  
J. B. Cockrum, for the respondents.

1. This was an application by the petitioner to condemn its right of way across and to be allowed to cross at grade the right of way of the respondents in the city of Bluffton, in this State. After the summons was served the respondents moved to dismiss the cause, for the reason that at the time the same was instituted the petitioner had pending in the Wells Circuit Court an application to condemn its way over the respondents' line, and that it should not be allowed to prosecute two proceedings of the same kind in two jurisdictions. Pending the consideration of this motion, parties entered into negotiations, and, as the Commission is informed, have entered into an amicable adjustment of the matters in dispute as to this crossing, and this cause is being continued on the docket for the purpose of presenting the same to the Commission for its approval.

**No. 198.—Lafayette & Logansport Traction Company v. The Vandalia Railroad Company, and the Wabash Railroad Company.**

Barrett & Morris, for the petitioner.

S. O. Pickens, for the Vandalia.

W. V. Stuart, for the Wabash.

1. This was an application by the petitioner to be allowed to enter the interlocking plant at the crossing of these lines at Clymers, Indiana. The cause was heard at the capitol on November 8th, and was subsequently determined by the Commission as shown in the following opinion by:

McAdams, Commissioner—A great many years ago what are now the Wabash and Vandalia railroads were constructed through the village of Clymers, in Cass County, this State. The Wabash is the senior line and is crossed by the Vandalia at such point. In the year 1895 such companies, by mutual agreement, and with the approval of the auditor of state, constructed a mechanical interlocking machine to protect such crossing. The expense of construction was \$4,548, which was sustained equally by the companies. The Wabash Company has charge of the maintenance and operation of the plant, and pays 65 per cent. of the expenses thereof, and the Vandalia pays the remaining 35 per cent. of such expenses. This division of expense of maintenance and operation was made upon the basis of train movement. This plant is in good condition and has always served the purpose sought to be accomplished by its construction. It would now cost \$8,400 to construct a new plant of the pattern of the existing plant, and, using such cost as a basis and allowing for depreciation, the present plant is now worth \$5,040.

In August of this year the petitioner constructed its line between Logansport and Lafayette, paralleling the Wabash on the south side and crossing the Vandalia at Clymers. The crossing is made within the territory included in the present interlocking plant. The petitioner obtained its crossing rights as the result of an action by it against the Vandalia, pursuant to the terms of the act approved March 30, 1903, Acts of 1903, page 125. Section one of this act provides that any traction company which obtained crossing rights pursuant to the act "shall, within six months after it commences to use such crossing, at its own expense, construct, and likewise at its own expense maintain and operate a system of full interlocking works with a derailing apparatus in the tracks of each

company of such design and character as will be best calculated to prevent collision at such crossing and will meet with the approval of the auditor of state, and such proceedings shall be had and such notice shall be given in securing the approval of such interlocking works by the auditor as the law governing the protection by interlocking devices of the crossings of two railroads may provide."

The petitioner brings this proceeding to be allowed to enter the present interlocking machine and to have its crossing of the Vandalia protected by additions to and alterations of the existing device. The Wabash makes no objection to the petitioner's line being included in the machine, provided proper adjustment is made of the expense of construction, maintenance and operation. So far as the Vandalia is concerned, the present machine is now of no value to it, as it is compelled to stop all trains before crossing the traction line. This condition must continue until the traction line is protected or the grade separated. The Vandalia places its objection to the petition upon the ground, first, that the act of 1903 requires the traction company to construct an interlocking machine as required by section one above quoted, and, second, upon the ground that the Commission is without authority to act upon this petition, and third, upon the further statement of its counsel that it is "unalterably opposed to making or allowing grade crossings of railroads or traction lines."

All parties frankly admit that it is not safe or practicable for the traction line to construct a separate interlocking plant to protect its crossing of the Vandalia, to be operated separately from the present plant, and the Commission finds that such action will not be approved or permitted. Section 5 of the Act of 1903, as amended by paragraph (P) of section 3 of the act approved March 9, 1907, provides that the traction company or the Vandalia Company may apply at any time to the Commission to compel the separation of this grade crossing. Therefore, we are confronted with these conditions: The present interlocking is out of service as to the Vandalia; the traction company had crossed the Vandalia at grade under the law of this State and the order of a court of competent jurisdiction; the law under which the crossing was made requires the traction line to interlock the crossing within six months after commencing to use it; the companies all admit that it will not be safe to have two interlocking machines at this crossing; neither the traction company nor the Vandalia has applied for a separation of the grade; the traction company is ready, able and willing to comply with the law of the State for the safe operation of its line,



and the protection of this crossing; the Wabash Company is willing that it may do so by being included in the existing machine upon proper terms; the Vandalia objects to its admission into the machine, and the Commission finds that there is no other safe or practicable way of protecting the grade crossing.

Either the Vandalia or the traction company could have prevented the present state of affairs by applying for a separation of the grade, but neither has so applied. If the Commission could initiate such a proceeding, it would solve this difficulty by requiring a separation of this grade, but it has no such initial authority. Therefore, has it authority in this proceeding to compel the admission of the traction line to the protection of the present interlocking machine?

Although by section 2 of the Act of 1903 the right of the traction company to operate its line is dependent upon its properly locking the crossing within six months, as provided in section one of the act, we are of the opinion that a literal application of such provisions can not be made to a state of facts and a situation such as we have here. These provisions assume that an interlocking apparatus, such as the statute requires and such as will meet with the approval of the Commission, can be constructed by the traction company at the point of crossing. What is it the act requires the traction company to construct, maintain and operate? The statute answers: "*A system of full interlocking works with a derailing apparatus in the tracks of each company.*" What kind of a device must it be? The statute says it must be "*of such design and character as will be best calculated to prevent collisions at such crossing.*" Who is to determine these requirements? The statute says the Commission shall. The parties admit, and the Commission finds as a fact, that the traction company can not add another machine to this crossing "*of such design and character as will be best calculated to prevent collisions at such crossing.*" And, on the contrary, the Commission finds that such additional machine would be an element of danger rather than safety, and would destroy the usefulness of the existing machine and make its operation extremely hazardous to the Vandalia line. We do not think the act of March 3, 1903, stands alone. According to its terms, it must be constructed with reference to all the other legislation on the subject of interlocking devices. When all these statutes are construed together it becomes plain, under the situation we have here, that the traction company must interlock its line in the manner which "*will be best calculated to prevent collisions at such crossings,*" and will meet

with the approval of the Commission, and the Commission finds that such result can not be accomplished except by taking the traction line into the existing machine.

We do not find it necessary so to do, and therefore do not decide what the result would be under section 2 of the act of 1903 if a traction company could not safely lock a crossing which it had forced under that act. What now confronts us is the crossing here involved, and concerning it our first duty is to the State looking to the secure and safe operation of this crossing.

*C., I. & L. Co. v. I. & N. W. Co.*, 74 N. E. 513.

In view of our judgment as to the application of the act of 1903 to this case, it would seem that our general powers granted in the interlocking act of March 3, 1897, are ample to dispose of this cause. In addition to these general powers, paragraph (q) of section 3 of the act of March 9, 1907, specially provides that the Commission may "make connecting or other changes in any existing device." This provision was inserted in this act for the express purpose of providing for cases of this character, and the provision quoted was inspired by a knowledge of the approaching controversy which we now have under consideration.

Authority in the Commission to act seems to be ample and the necessity great. The troublesome question is to determine upon what terms the traction company should be allowed to enter this machine. The obligation of the traction line to pay all the expenses of properly protecting its crossing of the Vandalia line, is absolute, if the Wabash was not present. This obligation is no more binding or controlling, however, than the obligation of the Vandalia to share in the expense of properly protecting its crossing of the Wabash if the traction line was not present. Therefore, we bring these companies together in the same machine and must apportion the expense of protecting a general crossing upon a basis which recognizes the obligation of each company.

The evidence shows that it will cost \$2,200 to properly connect the traction line, with the existing machine, in accordance with the plans prepared under the orders of and approved by the Commission. It is also shown that it would have cost the traction line \$4,200 to install a plant to protect its crossing of the Vandalia line if the Wabash line was not present. The evidence shows that it costs \$300 per year to maintain the present plant and that it will cost \$360 per year to maintain a plant such as is proposed. That it cost \$1,800 per year to operate the present plant and will cost

\$2,100 per year to operate the proposed plant. It appears that the Vandalia operates twenty and the Wabash thirty trains over this crossing daily, and that the traction line runs thirty-five separate cars over the crossing daily. It also appears that the machine now in use has twenty-eight levers and that only twenty-three of them are in use, and that the five spare spaces and levers will be ample to properly connect and protect the traction line. The following table shows the present distribution of the levers and a proper distribution to protect the Vandalia and the traction line alone, and a proper distribution to connect and protect the three lines, and also the value of the various plants. This information is taken from plans prepared by the Wabash Line under an order of the Commission made in this cause.

Plans.	Value of Plant.	Vandalia.	Wabash.	Traction.	Total.	Spare Spaces.	Total Machine.
Present plant.....	\$5,040	13½	9½	.....	23	5	28
Van. and Traction .....	4,200	11	.....	3	14	2	16
Three lines.....	7,240	15½	9½	3	28	.....	28

On these facts it appears that one-half of the present value of the present machine is \$2,520, which represents the Vandalia's interest, and that it will require an expenditure of \$2,200 to connect the traction line, making a total investment of \$4,720 by these two companies in the machine when completed. As the Commission views the rights of the parties, the traction line should sustain the entire expense of adding the five levers to the machine and properly protecting its crossing. The Vandalia requires two and one-half more levers to protect its crossing with the Wabash than to protect its crossing with the traction, and we think it should sustain that expense, which would be 5-27ths of its present interest in the machine, or \$466.66. The remainder of the Vandalia's portion of the present value of the machine is represented by eleven levers, which seem to be of common service and necessary in case a crossing is made by the traction over the Vandalia or by the Vandalia over the Wabash, and in such view we think the expenses should be sustained equally by the Vandalia and the traction line, or that 11-27ths of the present value of its portion of the machine, or \$1,026.67, should be sustained by each company. This apportionment of the construction and ownership of the reconstructed machine would be as follows:

Wabash, 9½ levers, representing.....	\$2,520 00
Vandalia, 8 levers, representing .....	1,493 33
Traction Company, 10½ levers, representing .....	3,226 67
<hr/>	
Total, 28 levers, representing .....	\$7,240 00

We, therefore, conclude that the traction line should sustain the expense of reconstruction and should pay to the Vandalia line upon demand the sum of \$1,026.67.

In the judgment of the Commission, the expense of maintenance and operation of the reconstruction plant should be apportioned upon the basis of money invested in the plant as above indicated; that is, disregarding the fractions, the Wabash should pay 25-72ds, the Vandalia 15-72ds, the traction line 32-72ds of such expense. We do not want to be understood as holding that these expenses should ordinarily be apportioned upon such a basis. On the contrary, we have held that the proper basis is the levers and functions apportioned to each company, but under the peculiar conditions existing here and the contract between the Wabash and Vandalia we conclude that the above is a more just and lawful division. We are of the opinion that the duty of rebuilding the plant so as to protect the traction line and the maintenance and operation thereof should be and are entrusted to the Wabash Company.

The Wabash Company and the traction company each filed petitions for a rehearing, the Wabash claiming one-half of the cash required to be paid by the traction company, and the traction company requesting the expenses of maintenance and operation to be divided on a leverage basis. These petitions were overruled.

**No. 199.--Price & Bruce v. The Chicago, Indianapolis & Louisville Railroad Company.**

1. This was an application by the petitioners to require the respondent to construct a siding to its elevator in Crawfordsville, Indiana. The cause was heard at the capitol on November 5th, and after the hearing was concluded the chairman requested the parties to go into conference with him concerning the same, and the negotiations then conducted resulted in an amicable adjustment of the matters in dispute, and a contract was entered into between the parties for the construction of facilities required by them, and the cause was accordingly so disposed of.

**No. 200.—Vandalia Railroad Company v. The Chicago, Indianapolis & Louisville Railway Company.**

S. O. Pickens, for the petitioner.

E. C. Field, for the respondent.

1. This was a petition by the complainant seeking a division of a through rate on coal from mines on its line, Vincennes division, to Stinesville, on the respondent's line. The cause was heard at the capitol on November 5th and was subsequently determined in the manner shown in the following opinion by:

McAdams, Commissioner—In August of this year the Commission, upon the petition of the Romona Oolitic Stone Company, established a joint rate on coal of 50 cents per ton from mines on the petitioner's line in Greene County to Stinesville on the respondent's line. The rate was published by the petitioner and what traffic has moved since its publication has moved on that rate. The companies were unable to agree upon a division of the rate, and this proceeding was filed, requesting the Commission to divide the rate between them. Since the hearing the Commission has modified its order establishing the through rate, so that the rate is now fifty-five cents, and this cause will be determined upon that basis.

The coal originates on the Vandalia's coal branch, connecting with the main line of its Vincennes division at Bushrod. The distance from Bushrod to the mines is ten miles and from Bushrod to Gosport Junction, where the coal is delivered to the Monon, is forty-one miles, making the Vandalia haul fifty-one miles. The distance from Gosport to Stinesville is five miles, and from there to the stone quarries the switches are of varying lengths.

The traffic is light and so far as respondent is concerned is handled in its stone train which daily serves the stone district between Gosport Junction and Bloomington. After the readjusted rate mentioned above becomes effective, we conclude that of the revenue derived therefrom the petitioner should have 30 cents and the respondent should have 25 cents per ton, and that upon the traffic which has and shall move upon the 50-cent rate the petitioner should have 30 cents and the respondent 20 cents per ton; and an order will be entered accordingly.

**No. 201.—Ex parte, The Cincinnati, Bluffton & Chicago Railroad Company, and the Toledo, St. Louis & Western Railroad Company.**

1. This was an application by the Cincinnati, Bluffton & Chicago Railroad Company for permission to cross the line of the Toledo, St. Louis & Western Railroad Company at grade in the city of Bluffton. These companies having entered into a contract, settled the matters in dispute between them concerning such crossing, and it appearing to the Commission that it was impractical to separate the grades at such point an order was entered granting permission for such companies to cross at grade.

**No. 202.—Pennsylvania & Indiana Coal Company v. The Southern Indiana Railway Company, and the Chicago, Indianapolis & Louisville Railway Company.**

1. This was a petition to require the respondents to make a physical connection between their lines at Midland, Indiana. After the service of notice the Commission sent its Chief Inspector to visit the site of the proposed physical connection, and upon his report being filed and submitted to the petitioner the cause was dismissed.

**No. 203.—Ex parte, The Marion, Bluffton & Eastern Traction Company, Cleveland, Cincinnati, Chicago & St. Louis Railway Company, and the Toledo, St. Louis & Western Railroad Company.**

1. Application by the Marion, Bluffton & Eastern Traction Company for the approval of an interlocking plant at the crossing of these lines in Marion, Indiana. Proposed plans consist only of what is known as a half interlocker, and not providing for any employe to be in charge of the same, upon the recommendation of the Commission's Engineer they were disapproved.

**No. 204.—Chas. F. Zeis and Others v. The Cleveland, Cincinnati, Chicago & St. Louis Railway Company.**

1. This petition concerns rates on classified traffic over the respondents' railroad to Greencastle, Indiana. The matters embraced in the petition being already under consideration by the Commission in cause No. 162, further action has not been taken in this proceeding.

No. 205.—**Indiana Bridge Company v. The Cleveland, Cincinnati, Chicago & St. Louis Railway Company et al.**

1. This proceeding involves all steam railroads doing business in the State of Indiana and concerns the subject of rules controlling car service. The basis of the petition is a request for the adoption of an average rule similar to that in effect in Ohio. Cause will be heard January 21, 1908.

No. 206.—**Ex parte, The Pittsburg, Cincinnati, Chicago & St. Louis Railway Company, and the Lake Erie & Western Railroad Company.** x

1. This is an application by these companies for the approval of plans for an interlocking plant at their crossing at Dunreith, Indiana. After receiving the report of the Commission's Engineer thereon, the plans were approved and the plant is now in course of construction.

No. 207.—**Central States Cooperage Company v. The Baltimore & Ohio Southwestern Railroad Company et al.**

Bamberger & Feibleman, for the petitioner.  
S. O. Pickens and others, for the respondents.

1. This petition concerns rates on cooperage material from points on the respondents' lines in this State to Newcastle, Indiana. The cause was heard at the capitol on the 16th of December, and will be continued on January 7, 1908.

No. 208.—**W. H. Guirl and Others v. The Evansville & Terre Haute Railroad Company, and the Evansville & Indianapolis Railroad Company.**

1. This petition concerned the rates on hay from points on the respondents' line to Terre Haute, Indiana. The matter was referred to the chairman and a meeting held at Terre Haute, at which the complainants appeared, and the companies being represented by D. H. Hillman, general freight agent, and the Commission by its chairman and secretary, such negotiations were conducted at this meeting that an amicable adjustment resulted, as shown by the following report of the chairman:

**To the Railroad Commission of Indiana:**

Gentlemen—In this case I have the honor to report as follows:

W. H. Guirl, and sixty-four other producers and shippers of hay along the line of the E. & T. H. and E. & I. Railroads, filed a petition with the Commission, November 16, praying a reduction of rates from points on above-named railroads to Terre Haute and Evansville. This case was assigned to the chairman of the Commission, who asked for a conference between the freight officials of the railroads and the petitioners.

On the evening of November 26, accompanied by Secretary Riley of the Commission, I went to Terre Haute and held a conference with the shippers. On the morning of November 27 a joint conference was held between the shippers and railroad officials and the chairman and secretary of the Commission, and after full discussion the following rates were agreed upon, to become effective at the earliest possible date.

E. & T. H. points from Carlisle and all points north thereof, to Terre Haute, former rate 7 cents; rate agreed upon, 5 cents. On E. & I. points from Coal City to all points north thereof to Terre Haute, former rate 7 cents and 7½ cents per hundred pounds; rate agreed upon, 5 cents per hundred pounds. From Duffer, Hubble and Johnson to Terre Haute, former rate 7 cents and 7½ cents per hundred pounds; rate agreed upon, 6 cents per hundred pounds. From Werthington and Plainville to Terre Haute, former rate 7½ and 8 cents per hundred pounds; rate agreed upon, 7 cents. All points south of Plainville to Terre Haute, 8 cents. This adjustment was entirely satisfactory to all parties concerned.

On December 4 the Commission received a telegram from Mr. F. C. Reilly, general freight agent, C. & E. I. Railroad, asking permission to put these rates into effect at once, and telegraphic authority was given, and the rates set out above, as agreed upon between the representatives of the Commission, shippers and railroad officials, are now in effect.

The petitioners withdrew their request for a local rate to Evansville, assigning as a reason therefor that nearly all of the hay shipped to that point was shipped to points south on a through rate, which is entirely satisfactory.

Respectfully submitted,

UNION B. HUNT,  
Chairman.



**No. 209.—Ex parte, The Cincinnati, Hamilton & Dayton Railway Company, and the Southern Indiana Railway Company.**

1. The Cincinnati, Hamilton & Dayton Railway Company filed petition to require the Southern Indiana Railway Company to construct an interlocking plant at the crossing of their lines at Dana, Indiana. The petition was referred to the Southern Indiana Railway Company, and it has indicated that such plant will be constructed as soon as plans can be prepared therefor and the material procured, and the Commission is now awaiting the presentation of plans for protecting such crossing.

**No. 210.—Ex parte, The Pittsburg, Cincinnati, Chicago & St. Louis Railway Company.**

1. Application by the petitioner for approval of plans for an interlocking plant at Richmond, Indiana. Plans were submitted to the Commission's Engineer, and upon his report being filed the plans were approved and the plant is now being constructed.

**No. 211.—The Southern Indiana Railway Company v. The Baltimore & Ohio Southwestern Railroad Company.**

Carl Wood, for the petitioner.

Edw. Barton, for the respondents.

1. Petition in this case asks an order of the Commission making a division in the rate on coal from mines on the petitioner's line to Lehman, Indiana, on the respondent's line. The rate sought to be divided being in litigation in Lawrence Circuit Court, the Commission has declined to take action in this cause until the litigation is disposed of.

**No. 212.—Ex parte, The Southern Indiana Railway Company, Long and Short Haul Petition.**

1. In this case the petitioner seeks an order of the Commission allowing it to charge more for hauling coal from mines on its line to points north of Seymour, Indiana, than it charges for hauling like coal from the same mines to Seymour. Notice of the petition was published in the Bedford Daily Mail and the cause assigned for hearing on December 18, 1907. An order was entered as asked in the petition.

**No. 213.—Jules P. Bessier v. The Cleveland, Cincinnati, Chicago & St. Louis Railway Company and Others.**

Hedrick & Tevebaugh, for the petitioner.

S. O. Pickens and others, for the respondents.

1. The petitioner, who is the proprietor of the Indianapolis Paste Company, complains of the respondents and charges that his product is improperly classified as paste, and that it should be reclassified and take a lower rate than that which it now carries. The proceeding involves forty of the steam railroads doing business in this State. Notice has been served and the cause will shortly be heard.

**No. 214.—Cincinnati, Hamilton & Dayton Railroad Company v. The Town of Roachdale, Indiana.**

1. This was an appeal by the railway company from an ordinance enacted by the board of trustees of the town of Roachdale, Indiana. The company failed to give notice of the appeal, as required by the statute, and the same was dismissed.

**No. 215.—Wabash Sand & Gravel Company v. The Southern Indiana Railway Company.**

J. H. Swango, for the petitioner.

Carl Wood, for the respondent.

1. The petitioner in this case complains of the charge imposed by the respondent for hauling gravel in carloads from its gravel pit to the lines of connecting railroads at Terre Haute, Indiana. The charge made is upon a tonnage basis, while the petitioner claims that respondent performs service for all other industries and patrons upon a switching charge. Notice has been served upon the respondent and the cause will shortly be heard.

**No. 216.—Ex parte, The Chicago, Lake Shore & Eastern Railway Company.**

1. This is an application by the petitioner to be relieved of the necessity of complying with the act of the legislature approved March 9, 1907, concerning the installation of a block system on steam railroads in this State. The petition has been referred to the Commission's Chief Inspector, and upon his report coming in the petition will be considered.

No. 217.—**Ex parte, Elgin, Joliet & Eastern Railway Company.**

This is an application by the petitioner to be relieved of the duty of installing a block system on its line as required by the act of the General Assembly March 9, 1907. The evidence has been heard and the application has been referred to the Chief Inspector, and when his report comes in the cause will be determined.

No. 218.—**Chicago, Indianapolis & Louisville Railway Company  
v. The Board of Trustees of the Town of Roachdale,  
Indiana.**

E. C. Field, for the petitioner.

Arthur Stevenson, for the respondent.

This is an appeal by the petitioner to the Commission from an ordinance adopted by the Board of Trustees of the town of Roachdale, Indiana, requiring certain street crossings in that town to be protected. The appeal has been referred to the chairman of the Commission and is assigned for hearing at Roachdale, Indiana, on January 4, 1908.

No. 219.—**Ex parte, Baltimore & Ohio Southwestern Railroad,  
and the Pittsburg, Cincinnati, Chicago & St. Louis  
Railway Company.**

This is an application by these companies for the approval of plans and an interlocking plant located at the crossing of their lines at X tower near Jeffersonville, Indiana. The plans and petition for inspection were referred to the Commission's Consulting Engineer, and upon his report coming in the plans and plant were approved and the companies authorized to operate the trains over the same without stopping after December 26, 1907.



## **APPENDIX II.**

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### **Informal Proceedings.**



## Informal Proceedings.

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### NO. 116.—INVESTIGATION OF ACCIDENT AT WOODVILLE, INDIANA, ON BALTIMORE & OHIO RAILROAD, INVOLVING LOSS OF LIFE OF FIFTY PASSENGERS AND THE INJURY OF ONE HUNDRED AND FIFTY PASSENGERS.

On November 14, 1906, information having reached the Commission from the public press that the above mentioned serious accident had occurred at Woodville, Indiana, the Commission determined to investigate said accident and convened on November 21, 1906, at Valparaiso, for that purpose and proceeded to examine the witnesses of the accident, who included chiefly the crews of the trains that were in collision.

After said investigation the Commission made the following order:

Whereas, The Commission on November 21, 1906, conducted a partial inquiry and investigation into the facts concerning the subject above entitled, and

Whereas, The information acquired is not complete or sufficient to fully advise the Commission in the discharge of its duties in that behalf or to enable the Commission to recommend such action as may be necessary to prevent a recurrence of accident of a similar nature or produced from like or other causes, and

Whereas, The controlling factors in such an inquiry involve elements essentially technical and of concern and paramount importance, not only to the respondent, Baltimore & Ohio Railroad Company, but to all the carriers in the state and their employees and the public as well.

Therefore, It is ordered, That such investigation be resumed on Thursday, January 31, 1907, at 10 o'clock a. m. at the State Capitol, Indianapolis, Indiana, and the personal attendance at such hearing of the following named railway officials, and the representatives of various associations of railway employes, is earnestly requested by the Commission, to the end that it may have several opinions and judgment upon this important inquiry, which so vitally affects their movement, the safety of the public, the employees and property of the carriers, viz.:

Mr. H. F. Houghton, general superintendent of C., C., C. & St. L. Ry. Co.

G. H. MacDonough, signal engineer of C., C., C. & St. L. Ry. Co.

W. C. Downing, superintendent, representing the Vandalia Railroad.

F. C. Bacheldor, superintendent, representing the Baltimore & Ohio Ry.

E. P. J. Potenoll, signal engineer, Baltimore & Ohio Ry.

J. O. Crockett, superintendent, representing E. & T. H. Ry.

John W. Logsdon, superintendent, representing L. & N. Ry.

J. J. Turner, vice-president, representing Pennsylvania lines west of Pittsburg.

W. McC. Grafton, signal engineer, representing Pennsylvania lines west of Pittsburg.

H. A. Boomer, superintendent, representing L. E. & W. Ry.

J. C. Sullivan, superintendent, representing Wabash Ry.

W. C. Brown, vice-president, representing L. S. & M. S., the Michigan Central R. R. and C. I. & S. Ry.

A. Shone, superintendent, representing T. H., L. & W. R. R.

S. K. Blair, superintendent, representing N. Y., C. & St. L. Ry.

C. C. Coffee, superintendent, representing Southern Railroad.

F. J. Moser, superintendent, representing Erie Railroad.

M. W. Wells, general manager, representing Southern Indiana Ry.

E. B. Taylor, representing C., I. & L. Ry.

J. T. Harrahan, vice-president, representing Illinois Central Ry.

R. P. Dalton, superintendent, representing C., C. & L. Ry.

W. S. Stone, representing B. L. E.

P. H. Morrison, representing B. R. T.

John J. Hannahan, representing B. I. F.

J. Garrettson, representing O. R. C.

J. H. Parkham, representing O. R. T.

It is further ordered, That any other person may there be heard either in person or by counsel.

(Signed)

CHAS. B. RILEY, Secretary.

Before the date set out in said order for the final examination, two other serious accidents occurred, one on the Big Four Railroad near Fowler, Indiana, and one on the Big Four Railroad near Sandford, Indiana, and the General Assembly of the State, then in session, passed a joint resolution requiring the Commission to investigate all of these accidents and report its findings to the Assembly. The report so made is as follows:



## LEGISLATIVE INVESTIGATION.

WOODVILLE. FOWLER. SANDFORD.

STATE OF INDIANA.

RAILROAD COMMISSION OF INDIANA.

To the Senate and House of Representatives of the State of Indiana:

On January 25, 1907, the Railroad Commission of Indiana received from the Hon. Fred A. Sims, Secretary of State, a certified copy of Senate Joint Resolution No. 3, approved January 24, 1907, reading as follows:

A joint resolution directing the Railroad Commission of Indiana to investigate the accidents which recently occurred at Fowler and Sandford on the Cleveland, Cincinnati, Chicago & St. Louis Railway.

Section 1. Be it resolved by the General Assembly of the State of Indiana: In view of the recent disastrous wrecks occurring on the Cleveland, Cincinnati, Chicago & St. Louis Railway at Fowler and Sandford, in this State, resulting in the loss of many lives and the injury of many persons and the destruction of much property, and in view of the limited authority now vested in the Railroad Commission of Indiana to investigate such matters, that the Railroad Commission of Indiana be and it is hereby empowered and directed to make a full, complete and impartial investigation of the cause of such accidents with a view to determining how a recurrence of similar accidents can be prevented in the future.

Sec. 2. In making such investigation such Commission is empowered to issue process to any sheriff or constable of this State, who shall forthwith serve the same, to require the attendance of witnesses and the production of books, papers and documents; to administer all necessary oaths to witnesses and to employ such assistants as may be necessary to enable it to make such investigation thoroughly and with dispatch.

Sec. 3. Any person failing to respond to any subpoena or to produce books, papers and documents or to testify in such investigation shall be by such Commission reported to this General Assembly for its action.

Sec. 4. The expenses of such investigation shall be audited and approved by such Commission and paid out of the State Treasury upon the approval of the Auditor of State.

Sec. 5. Such railway company shall be allowed to participate in such investigation by its officers and counsel and to have process requiring attendance of witnesses and the production of books and papers.

Sec. 6. When such investigation is completed the Commission shall report its findings and conclusions to this General Assembly, together with a transcript of the evidence taken by it.

Pursuant to the direction of the Assembly, the Commission at once proceeded to discharge the duties required of it, and begs leave to report herewith a copy of all the evidence taken by it, together with its findings, conclusions and recommendations.

At the time this investigation was ordered the Commission was engaged in an examination of a wreck which occurred on the Baltimore & Ohio Railroad at Woodville, Indiana, November 12, 1906, and had examined the train crews involved in that accident, and had at that time entered an order requiring certain operating officers of certain railroad lines in this State, and chiefs of the Brotherhoods of Railway Trainmen to appear before the Commission at the State House on the 31st of January for the purpose of being examined with reference to this accident and to advise the Commission with reference to the causes of so many accidents and as to what could be done to prevent their occurrence. The Commission, therefore, presumes that the information acquired concerning the Baltimore & Ohio accident will be of interest to the General Assembly and to the public in the consideration of the matters specially referred to in the Assembly's Joint Resolution, and in making this report the Commission will use the information secured in such investigation, and begs leave to report thereon and submit herewith a copy of the evidence taken in that proceeding.

The Commission respectfully reports that the officers of the Big Four Railroad Company have availed themselves of the privileges extended by Section 5 of the joint resolution, and they, together with their employes, have cordially joined with the Commission in the investigation of these accidents and have afforded every means in their power to bring to light every possible fact in order to facilitate the investigation and arrive at the truth with reference to these accidents.

### **Woodville.**

1. On the Chicago Division of the Baltimore & Ohio Railroad, near Woodville, Indiana, about three o'clock a. m., November 12, 1906, passenger train No. 47, westbound, was running in two sections under the following order: "Engines 2130 and 1459 will run as first and second 47, Garrett to Chicago." Train rules on this railroad require that green lights and green flags should be carried by the first section of this train to show that there was another section following. The evidence shows that these green lights were lit and burning and green flags displayed when the train left Garrett, and that these signals were displayed all right when the train left

Walkerton, about thirty-five miles east of Woodville. It was a very stormy night, and neither the engineer nor the fireman saw these lights after the train left Walkerton until the train stopped at McCools, about two miles west of Babcock, when it was found that both lights were out.

2. At 2:35 a. m., same date, first 98, a freight train, thirty-one cars, caboose and engine, going east, arrived at Babcock, and took the siding for No. 47 to pass, which was due there at 2:45. First 47, running sixty miles an hour, passed, and at the time all the freight train crew were on the look out for signals and saw none. The rules require that the engineer of first 47, when running as first section, should not only carry green signals, but should give in addition one long and two short blasts of his whistle, and to get a response from the engineer of the freight train, and if no response is given, to stop. The evidence is conflicting as to whether the engineer of first 47 whistled at all, but the preponderance and probable fact is that he did give some sort of a blast of his whistle, but whether for the station or the road crossing or what, that part of the freight crew who heard it understood it as a whistle for the road crossing. It is clear, however, that the engineer got no response; that the rule, which he and his fireman knew, required him to stop to ascertain why his signal was not understood or recognized; and that, therefore, for having his lights out, for failing to whistle properly and for failing to stop, he was chiefly and primarily responsible for the resulting wreck. Galnour, this engineman, stopped at McCools, two miles west of Babcock, got down and found the green lights out, and he and his fireman relit them. Neither he nor his fireman reported to the operator at McCools that the lights were out or that they had received no response to his signals from 98. Directly after No. First 47 passed the freight train 98 pulled out, and at Woodville, six miles east, collided with second 47, killing forty-four and injuring one hundred and fifty persons.

3. We learn from the annual reports filed with the Commission that the Baltimore & Ohio & Chicago Railroad Company, owner of this line, receives from the Baltimore & Ohio Railroad Company over \$3,000,000 for the rental of its line; that it had a surplus of earnings over expenses for the year of over \$2,000,000; that the gross income from operation per mile of line operated by the Baltimore & Ohio Railroad Company was over \$14,000, and that the net income from operation is over \$5,000 per mile of line; that its surplus earnings for the year were over \$6,000,000. The evidence before us shows that a fair telegraph block system can be installed

upon this line in this state at an expense not exceeding the reasonable capacity and ability of this company to pay out of its earnings for one year. The evidence also shows that if the block system had been installed on this line this accident could not have occurred without a violation of the rules and regulations which are now accepted as the best security from accidents of this kind. This line is one of the principal trunk lines crossing the State and has a very dense traffic over a single line where the accident happened. No reasonable excuse has been given why this line could not have long since been protected by the block system. Other lines in this State having less income per mile and a less dense traffic have been so protected for several years, and the Commission is strongly of the opinion that the Chicago Division of this line in this State should be immediately equipped with a substantial block system.

### **Fowler.**

1. The Cleveland, Cincinnati, Chicago & St. Louis Railway, commonly called the Big Four, throughout its Chicago Division from Cincinnati, Ohio, to Kankakee, Illinois, has installed and in operation what is known as the telegraph block system of train control and movement, and while this is regarded as an excellent system it will not prevent accidents unless the rules under which it operates are carefully observed, as the following facts concerning the wreck at Fowler clearly demonstrate:

At about 2:15 a. m., January 19, 1907, Big Four passenger train No. 38, eastbound, running between Chicago and Indianapolis, collided with Big Four freight train No. 95 westbound, running between the same points, at Fowler, Indiana, resulting in a disastrous wreck, the loss of seven lives, the injury of sixteen persons, two of whom died from the effects of such injury, and the destruction of much property. The main facts concerning this collision and the conditions under which it occurred, as ascertained by the Railroad Commission of Indiana, are as follows:

2. Train No. 38 was due out of Kankakee at 1:03 a. m. and left there at 1:12 a. m., or nine minutes late. The scheduled running time of this train between Kankakee and Fowler, Indiana, including stops, was about forty-four miles per hour, making its rate of speed between fifty and sixty miles per hour between stations. Time was lost between some of the stations, but between Earl Park and Fowler, a distance of six and one-half miles, about three and one-half minutes were made up, which would require the train to run at a

speed of between sixty-five and seventy miles an hour. The night was dark and foggy, and according to the evidence the signal lights could be seen but a short distance. Engineman Tripp of No. 38 states that the block was clear at Fowler, but the preponderance of evidence clearly indicates that Mr. Tripp was mistaken.

Before describing signals it should be stated that a red light indicates danger and is used as a stop signal, while a green light signifies a clear track and permission to go ahead.

R. E. Thomas, the company telegraph operator at Fowler, made the following report to the Trainmaster of the Big Four at Kankakee, Illinois:

FOWLER, IND., STATION,  
Jan. 21st, 1907.

Mr. C. A. Borchers:

No. 38 of Jan. 19th, '07, run order board at this station. I had orders for 38 to wait at Fowler until 2:17 a. m. No. 38 went by red board at 2:15 a. m., running into No. 95, who was just heading in to let No. 38 go, causing very bad wreck. I herewith attach statement of Mr. John Bowman, policeman at this place.

(Signed) R. E. THOMAS,  
Night Opr.

Mr. Thomas testified to the same effect before the Commission and his evidence is supported by the evidence of John Bowman, marshal of Fowler. Mr. Bowman stated to the Commission that as marshal of the town of Fowler he remained on duty until 4:00 a. m.; that on the morning of the 19th of January last he went to the Fowler station a little after 2:00 o'clock a. m. and just prior to the collision. That he was at the depot six or eight minutes before the wreck occurred; that R. E. Thomas, the operator, was sitting at the east end of the office near his telegraph instrument; that he was looking east; that he asked the operator where 38 was and the operator replied that he had an order for 38 to wait until 2:17 for No. 95 to get into the clear. Mr. Bowman further said that the night was very foggy; that he had been out all the evening and could see a switch light from seventy-five to a hundred feet; that he observed the semaphore at the station; that he was sitting in the room with his face toward the direction No. 38 was coming from; that the operator walked over to see if the train was coming and suddenly wheeling around grabbed him by the shoulder and exclaimed, "Something is going to happen here! Look at those blocks!" When he looked the ropes with which signals were operated were hanging even or about two feet above the head of the operator when sitting in his chair. It was only a second after that

until the train went by like a shot and possibly twenty-five or thirty seconds later until the train struck. The ropes attached to the block signaling apparatus at the station were hanging when he went into the station just as they were when the train passed, and after the train passed he stepped out to see if anything was wrong with the signals and the block lights showed red.

3. From this evidence, which corroborates the statement of the operator, the Commission is of the opinion that Mr. Tripp, the engineman of No. 38, did not see the green signal at Fowler; that he either mistook a switch light for such signal or didn't see any signal at all and not seeing any signal at all took chances of making Templeton, the next stop east of Fowler.

Experienced engineers have testified before the Commission that it would have been almost impossible for the engineer to have seen the red light on the Fowler block in the dense fog prevailing at the time if running at the rate of speed shown by the evidence and indicated by the amount of time made up between Earl Park and Fowler.

4. From the information before us, it appears that the engineer of No. 38 was running at a reckless rate of speed and failed to see the signal. If he failed to see the signal it was his duty to stop and ascertain why, as under the rules of his company the absence of a signal where one should be or the imperfect display of a signal, is of the same effect as a stop signal. Had the engineer obeyed the signal and stopped his train he would have been held at Fowler until No. 95 was in the clear and this disaster would not have occurred.

Therefore, we find that he was primarily responsible for the collision.

5. The conductor and engineer of No. 95 may be said to be secondarily responsible. They had an order at Swanington that 38 would be held at Fowler until 2:17. They left Swanington at 2:04, which, if 38 had been held at Fowler according to orders would have given them thirteen minutes to get into the clear at Fowler before 2:17, but the evidence shows that it required about eleven minutes for 95 to run from Swanington and get into the clear at Fowler. Under the rules of the company inferior trains are required to be in the clear five minutes before superior trains are due, and even with the best of luck 95 would have had but one or two minutes to get into the clear at Fowler before 38 was due. The conductor and engineer must have known when they left Swanington that they were violating an important rule of the company;

that they could not possibly have complied with this rule must have been apparent. It may be said that the crew of No. 95 had a right to expect that 38 would be held at Fowler until 95 was in the clear. And this was true, yet the advisory order to them that 38 would be held at Fowler until 2:17 was also notice to them that they should be in the clear at that station at 2:12, which was an impossibility. When human life is at stake the greatest possible safeguard should be used. The five minute clearance rule was made to avoid accidents of this character, and its observance in this case would have prevented the accident in question, though this in no way excuses the engineer of No. 38 for his reckless running and disregard of signals.

6. There was some evidence tending to show, though not satisfactory, that this rule governing the passing of trains was frequently violated; that trainmen thought it a sufficient compliance if they got into the clear at all before the superior train was due. The railroad officials claim if this rule is violated, that it is without their knowledge and there is nothing to show that this contention is incorrect. The importance of its careful observance should be forcibly impressed upon the men charged with the responsibility of running trains.

7. The Commission viewed the site of the station, the block signals and switch signals at Fowler, and it is of the opinion that to say the least that the relation of the block signals to the different switch signals located near that station is unfortunate. Approaching the station of Fowler from the west are located two switch signals about 500 and 600 feet west of that station respectively. About 250 feet east of the station is another switch signal. The light in the switch signal farthest west of the station is nineteen feet and three inches from the top of the rail and the light in the switch signal directly east of this one is seven feet from the top of the rail, and the light in the switch signal east of the station is eighteen feet and three inches from the top of the rail. The light on the semaphore post at the station is forty-one feet and five inches above the top of the rail and twenty-five feet and eight inches to the north of the track. The extreme height of the semaphore post was occasioned by the fact that going west from the Fowler station the track is on a heavy ascending grade. On the north side of the track west of the station for a distance of several hundred feet are many high trees which necessitate the raising of the semaphore signal to such a height that it may be seen by an approaching train on the grade west of the station. On a clear night the semaphore

lamp can be very readily distinguished for a distance of a mile west of the station at Fowler, and the view of this light is not interfered with by the trees above mentioned until the engine reaches the trees. When the atmospheric conditions are poor as on the night in question it is questionable as to whether or not this signal can be seen from a train running at anything like service speed. The commission is of the opinion that this arrangement is not the best and that the signal could be better arranged.

8. Much time was given to examining the rules of the company governing the operation of trains and the orders upon which the trains were running at the time they collided on the night in question. No. 95, the westbound freight train, when it reached Swanington received an order from the operator at that point known as a 19 order. This order is in the nature of a helping order, i. e., an order passes to a train which permits that train to use more of the time of another train than its schedule allows and if such order fails of delivery or is not acted upon no harm will necessarily follow. The order is issued by the train dispatcher so that one train will get farther along on the road than its time schedule would give it rights for, and the crew of that train upon receipt of such an order must consult their own judgment as to whether they can act on the order and maintain a full observance of the rules. The eastbound passenger train No. 38 never received the order intended for it, as it failed to stop at Fowler, the point at which the order was put out. The dispatcher had intended that train to be stopped at Fowler and there receive the 31 order which the operator at Fowler had received over his wire. A 31 order is a positive order and must bear the signatures of the engineer and conductor of the train to whom it is addressed before it can be acted upon, whereas a 19 order requires no signatures. Had the orders been received and obeyed upon the night in question the unfortunate disaster would have been avoided.

9. The evidence disclosed the fact that telegraph operators in charge of the very vital function of train operation are in most instances less than twenty-one years of age, and many of them as young as seventeen and eighteen years of age. The Commission received expert evidence on the capacity of boys of the ages mentioned to properly discharge the responsibilities which their positions as telegraph operators entail. Eminent specialists gave it as their opinion that neither the mental nor bodily development at those ages fitted the boy for long hours of service, accuracy of judgment or conception of responsibility. The demands of nature are



such in boys of those years that they are frequently found asleep at their post of duty, which is an unwarrantable hazard in railroad operations.

10. In directing the Railroad Commission to recommend measures to prevent railroad accidents, the General Assembly has imposed a duty which can not be best accomplished in the short time given for this investigation. One feature of railroad operation, which has attracted the attention of the Commission is the fact that most accidents have resulted, in one way or another, from the violation of rules. On this point the Commission is not well enough informed to assert or deny that the rules of the American Railway Association are the best that could be promulgated. We are informed that these rules have received the careful attention and study of practical railroad men, and we assume that they are sufficient, if observed, to prevent the persistent recurrence of railroad accidents. In the hearings before us on this subject it has been asserted more than once that these rules were disobeyed with the knowledge of the superior officers of the company. It has been suggested that the large amount of business done by the carriers, a great deal of it in this State on single track roads, presents a temptation to expedite the movement of trains faster than safety permits. Railroad officers appearing before the Commission strenuously denied that they wink at or connive at the violation of rules, insisting that if these rules are disobeyed it is the fault of the men who run the trains. On this point we have the facts in the accidents at Woodville and Fowler to show most flagrant violation of the rules, and we have the admission of some of the men, notably of one engineer representing in legislative matters the Railroad Engineers of this State, to the effect that not only are the rules violated, but that an engineer who would adhere closely to the rules would be regarded by other men as a sissy and a grandmother. A most emphatic refutation of this evidence came to the Commission in the testimony of Mr. George Lamb, of Indianapolis, one of the oldest engineers in the service of the Big Four Railroad Company. His splendid record of forty-three years of railroad service without censure, suspension or dismissal, is, in the opinion of this Commission, a striking testimonial of services efficiently rendered and a full conception of his responsibilities. Mr. Lamb testified that if the rules governing the running of trains were strictly observed accidents would be reduced to a minimum. He stated that safety is and always had been of first consideration with him; that he had often found it necessary on dark and foggy nights instead of attempting to make

up time, to stop his train and go to the tower or block station for orders; that in such instances he very often reached his point of destination late and that instead of being censured therefor was commended by his superintendent for exercising proper care. While a majority of railroad men are careful in the discharge of their duties to comply with the rules of their companies, the facts before us constrain us to believe that many of them do not give that strict adherence to train rules by which safety of travel is assured, and these men not only endanger their own lives, but the lives of the traveling public, and also of their more careful and pains-taking associates. We apprehend that men accustomed to danger, some of them at least, become reckless. They take chances which the public are not called on to take, and are unwilling to take. Just as some of the superior officers of the companies fail to recognize the great rights of the public with reference to railroads, so these men seem to think that if they sufficiently guard the property of the companies, and their own safety, they have performed all the duties required of them.

We think that the State of Indiana by its General Assembly and by its Railroad Commission, by appropriate action, should impress on the men as well as the officials that the railroad is not a private property, but is a public highway; that a railroad corporation is not a private corporation, owned entirely by its stockholders, but a public service corporation; that the men who operate the passenger trains are not only servants of the corporation, but are public servants, and owe a paramount duty of safe transportation, more imperative and important than the duty that they owe to the owners of the property from whom they receive their employment. The Railroad Commission bill now pending before the General Assembly makes it the duty of the Commission to observe the manner in which railroads are operated for the safety of the public, and makes it our duty to investigate all railroad accidents. Two years from now this Commission will be able from the facts it shall gather to report more confidently and fully as to the cause of accidents and their prevention.

### **Sandford.**

1. The American Powder Mills has one of its factories at Concord Junction, Mass., on the line of the Boston & Maine Railroad. At this mill the company manufactures sporting or rifle powder, which it stores in metal cans in magazines, where no other explosives are kept. This company handles dynamite at this point, but

does not manufacture the same there, obtaining its supply from another mill near Chicago. Its supply of this article is stored in a magazine located a mile from the powder magazine. This company also manufactures at this point certain other powders of the blasting and smokeless varieties.

The Equitable Powder Manufacturing Company is located at East Alton, Illinois. This company engages in the manufacture and assembling of the materials from which shotgun shells are made and which are manufactured by it.

On the 17th of December, 1906, this company ordered from the American Powder Mills 700 kegs of FFG rifle powder and 300 kegs of FFFG rifle powder. On January 1st, 1907, 500 kegs of this order were shipped by the American Powder Mills and arrived at destination without accident. On January 9th, the remainder, 500 kegs, were sent and reached Sandford, where the same was destroyed on the 19th. The invoice for the last shipment was made on the 9th and arrived at East Alton before the explosion occurred. Sworn copies of the invoice furnished by the consignor and consignee show that rifle powder only was included in the consignment. The shipment weighed 13,750 pounds and was valued at about \$1,200.

2. The consignment was loaded in a Big Four car, and delivered to the Boston & Maine Railroad. This shipment traveled over that line to White River Junction, about 120 miles. Then over the Central Vermont Railroad to St. Johns, Canada, about 160 miles; then over the Grand Trunk Railway to Granger, Ind., about 730 miles; then over the Big Four, Michigan Division, to Anderson, Cleveland Division to Indianapolis, and St. Louis Division to Sandford, 236 miles, making over 1,200 miles in transit at the time of the explosion.

The regulations enforced by the Boston & Maine Railroad, which first received the shipment, are the same in substance as the requirements of all first class railroads regarding the shipment of explosives, and these regulations are in substance the same as those prescribed by the Ordnance Department of the United States Army, and upon the information at hand the Commission approves these regulations as being the results of the best judgment of those engaged in this service. These regulations require a first class car, free from leaks, free from projecting nails and bolts, and in proper condition for operation. The regulations also require protection over the king bolt and that the doors be cleated or stripped so as to keep out all sparks, and require the car to be thoroughly cleaned

before loading and properly sealed after loading. It appears that all these conditions were complied with and certified by the Powder Company to the railroad company and noted on the waybill at the time the Boston & Maine Railroad Company received the car. In addition to these requirements the car must have on each side and on each end a placard indicating the contents and demanding care. The ordinary practice and requirements would produce an inspection of this car at the end of each division over which it passed and at all junction points. The last inspection was at the Indianapolis yards of the Big Four Company and there the car was found to be in good condition, properly cleated and sealed.

After leaving Indianapolis the car passed under the inspection of the conductor at least three times as the train pulled by, and once at Sandford when he walked the length of the train only a few minutes before the explosion. The car was midway in the train and was not endangered by the locomotive. In transit from Indianapolis to Sandford this train took the siding several times for heavy trains to pass. Some of these were very heavy passenger trains going at high speed. The weather prevailing during the movement from Indianapolis to Sandford was very bad, rain falling a greater portion of the time, and had ceased only a short time before the explosion. At the time of the explosion a very strong wind was blowing from the southwest. The freight train took the siding on the south side of the main track at Sandford to allow the following passenger train to pass it at that point. When the engine of the passenger train was opposite the powder car the explosion occurred. The passenger train was running at about 30 miles an hour, without using steam, preparatory to make the station stop at Sandford. This train consisted of an engine, combination baggage and express car, a smoker and one coach. No application was made of the air for the purpose of making the stop.

3. The explosion resulted in the death of 13 identified persons and two unidentified persons, including members of the train crew, and in the injury of 39 persons, including members of the train crew.

4. Assuming the powder car to be its center, the force of the explosion covered all the territory within a radius of half a mile. The engine of the passenger train, weighing 41 tons, was blown from the rails and some ten feet from the track. The tender was blown loose from the engine and the cistern, which was riveted to the tender, was torn loose, blown out of the tender and into the public highway several hundred feet distant. The baggage and

express car and the smoker were demolished, and the entire passenger train burned; the gas tanks of the passenger cars were not exploded, but all connections were broken. The powder car was completely destroyed, excepting the trucks. The freight cars near the powder car were crushed and the contents scattered for many hundreds of feet. The earth under the powder car was driven downward the whole length and width of the car, the depression being from  $2\frac{1}{2}$  to 3 feet deep at each end and less in the center of the car. The rails under the car and the trucks were also driven downward and embedded in the earth. The ties seem to have bent and broken in the middle and at the ends, as from pressure over the rails. All the houses within the radius above mentioned were greatly damaged. All glass was broken inward from all sides. Doors were also broken and split inward. A large chimney in the church burst outward, and in some instances great quantities of plastering and wall paper were stripped from the walls of houses. Parts of the bottom and frame of the baggage car, weighing several hundred pounds, were blown over an adjoining grove, and must have gone several hundred feet in the air and landed nearly one thousand feet from the tracks. A portion of the express messenger's trunk was found in this same locality, as well as a trunk of an unidentified body; also other portions of dead bodies were found in this vicinity. The debris from the explosion was scattered over the entire area, but more largely to the north, as it came principally from the destruction of the passenger train. All the powder in the car was exploded and consumed, with the possible exception of one keg, but as to that the evidence is not satisfactory. It appears from the testimony of experts that where large quantities of powder have been subject to the hazard of explosion that many kegs, such as these were, are not damaged and that much of the powder is not burned. Many ends of kegs were found over the territory, but no bodies of kegs were found. The ends were made of soft steel or iron and had been rolled and put together by pressure, not by welding. Many balls of fire were seen in the air and in the trees and rolling on the ground after the explosion. The car next to the powder car contained a quantity of excelsior used in packing its contents, and this largely burned and was blown about when burning. The report of the explosion was heard at distances of ten miles and more. There was no odor of any kind perceptible to persons who appeared upon the scene immediately upon the accident or discovered by those who escaped from the wreck.

5. Qualitative analyses of the residuum on the keg ends, made by Dr. John White, professor of chemistry at Rose Polytechnic Institute, and Professor H. E. Barnard, state chemist, showed the presence only of common black powder. Such powder can not be discharged or set off excepting by a spark or flame or by friction which is so intense and long continued as to produce sufficient heat as to result in ignition, and then it is the flame or spark which causes the powder to explode and not the friction. Common black powder does not deteriorate or decompose so as to explode spontaneously. Some varieties of smokeless powder and other detonating and high explosives will decompose and explode spontaneously. There was no article or debris of any kind found in the wreckage which indicated the presence of any packing cases or receptacle commonly used or which had been used to retain any explosive other than the sporting powder. Many articles of wreckage and the surrounding earth and trees were examined by Dr. White and by Dr. Maas, president and professor of physics in Rose Polytechnic Institute, for the purpose of discovering some evidence of a different explosive, but none were found. An oil pipe line crosses the tracks about a hundred feet west of the point where the car of powder stood at the time of the explosion. Our information is that crude oil is pumped through this pipe line. Crude oil we know contains more or less gas. An examination of the soil along the pipe line on the morning following the explosion did not reveal any odor of gas nor was there any odor in the atmosphere. An apparently reputable citizen claims to have seen a meteor pass his house, five miles from Sandford, and going in the direction of Sandford, and that the explosion was heard by him within a few seconds after the meteor passed. The night had been warm, about 70 degrees, but was getting colder after the wind commenced to blow. No one in the vicinity saw any lightning or heard any thunder. Reports of lightning at distant points have been reported, but not well verified.

6. We are unable to find that this accident was caused by any negligence on the part of the railway company or its employees.

The foregoing are the substantial facts found by the Commission. On account of the inability of the Commission to arrive at a definite conclusion, it will state other facts in the conclusions which follow:

### Conclusions.

On account of the importance of this inquiry and our inability to arrive at a definite conclusion as to the cause of the accident, we

have thought best to briefly discuss, and, in so far as we are able so to do, eliminate from further consideration and from the public mind certain theories which have been advanced concerning the cause of this unfortunate catastrophe.

At the threshold we are met with the fact that any solution must stand largely on circumstantial evidence. We have many established physical facts, and much oral and documentary evidence, but these alone do not invite the mind to a conclusion. The fact of the explosion, its cause and effect, must and will, when ascertained, agree with every physical fact surrounding the event and with every other fact shown in the evidence. These are elementary principles to which there are no exceptions. Therefore, every circumstance which is not in accord with known facts must be disregarded. The presumptions which attach to the ordinary conduct of men and to the course of business and events should also be given proper consideration and rational and ordinary conduct expected from all whose conduct has not been explained. With these suggestions, we proceed to examine the theories advanced.

#### WHAT WAS THE EXPLOSIVE?

Passing over the question of the cause of the explosive going off, what was the material exploded? The order, the invoice, the waybill and the sworn statement of the powder companies, the analyses of the residuum found on the kegs, all indicate common black powder. The results of the explosion show conclusively that the volume of material exploded was common black powder, which is technically designated as a "progressive explosive," which discharges slowly and thereby seeking points of least resistance, and the volume of which when transformed into gas is as 1 to 280. If the exploding mass had been nitro glycerine, gun cotton or dynamite, which with others are known as detonating explosives, which discharge quickly and do not seek points of least resistance but go in all directions with greater speed and power, the results would have been vastly different. Instead of a slight depression under the car there would probably have been a cavern the size of a house. The engine and entire passenger train would probably have been destroyed by the blow instead of being toppled over. Nearby houses would have been demolished and all the passengers probably killed. The volume of gas created by exploding nitro glycerine compared with the volume exploded is as 750 to 1, or almost three times as great as that of powder (Von Schwartz), and the action is much more rapid. Powder pushes and splinters along the lines

of least resistance. Detonating or high explosives disrupt and shatter in all directions regardless of resistance. Powder burns and communicates from package to package and gathers in volume of gases as it progresses. A high explosive flashes and the whole body is put into action instantly. To find that the body exploded was a high explosive we would have to find that the vendor and purchaser each assumed the risk for all liability which has accrued in this case and falsely billed the shipment. We may safely assume that these dealers and manufacturers know the danger attendant upon the handling of such shipments and that by false billing they would have become liable for all consequences following their deception. Besides, the showing is that the vendor kept no such goods at this mill and that the purchaser had no use for the same.

#### DETONATORS, EXPLODERS OR FULMINATES.

Considering the mass exploded as powder, was it set off by and on account of detonators, exploders or fulminates in the car? We think not, because the company did not manufacture or keep such goods at the point of shipment. The vendor or purchaser could not afford to hazard \$1,200.00 worth of powder to get a small shipment of detonators or fulminates. The buyer could buy these at St. Louis and haul them overland for safety instead of shipping them over 1,200 miles in a freight car. If such had been present in the car, there is no reason why they should have exploded at this time that would not also apply to exploding the powder without their presence. Detonators, exploders and fulminates are discharged by concussion or a blow. There is nothing shown to have caused a concussion in the car at the time of this explosion. It is possible for these very sensitive explosives to be set off by what is known as an "explosion by relation." That is, some body may be set in motion and cause such a violent disturbance in the air space between the body and the explosives as will operate to explode the latter without any matter other than the air thus agitated passing over or pressing against it. This car had traveled 1,200 miles, gone through many large terminals, had been passed by hundreds of trains and no doubt received the usual kicks and bunts incident to yard and train movement. The approach of the light passenger train under control was a slight disturbance of the atmospheric conditions when compared with that produced by the passage of the heavy first class passenger train at a high rate of speed only a few hours before and under like conditions. The setting of the brakes, had they been set, would not have increased



this air pressure or disturbance. Such air pressure as is produced by a passing train and operating upon objects at its side is caused by the wedge-like movement of the onrush of the train. A slackening of the speed or sudden stopping of the train does not increase, but decreases the air pressure in front and at the sides of the moving train and the reverse movement of the air in the rear of the passing train at once restores the equilibrium. We find that there was no application of the air brakes. Those on the train who thought they detected a setting of the brakes evidently mistook the initial air pressure from the explosion which preceded the flash and the report. The brakes were no doubt set after the explosion had severed the air connections, but that occurred at a time when it was not discernible. Undoubtedly an emergency application of the air would cause some shock to the rails and thence to the earth, caused by the struggle between the brake shoes and the momentum of the train. However, we are not advised that this shock will travel through the earth or that explosions by relation can be produced thereby, or that the condensation produced thereby is greater than that produced by the rapid movement of a heavy passenger train, such as passed this car.

#### IGNITION BY PINTSCH GAS EXPLOSIONS.

After the train had burned, the gas tanks belonging to the passenger train were found intact, excepting that all connections had been severed. There could be no explosion of this gas if the tanks were found intact. If all of the gas in the tanks had been liberated at once in the violent wind prevailing at this time it would have been so quickly dissipated as to have been harmless.

#### IGNITION BY GAS EXPLOSION FROM PIPE LINE.

The locomotive of the freight train had slowly passed over the pipe line only a few minutes before the explosion. The conductor of the freight train had crossed the pipe line with his lighted lantern after the freight stopped. The engine of the passenger train had not arrived at the pipe line at the time the explosion occurred.

It is necessary in a closed room to have at least ten per cent. of the cubical contents constituted of gas in the atmosphere before it becomes an explosive. If a leak existed in the pipe line the severe wind would have scattered the gas at once so that it would have been harmless. There was no odor of gas in the air or trace of it

found in the soil on the morning following the explosion. There were no signs of subsequent leakage and no repairs had been made.

#### IGNITION BY METEOR.

The witness who thinks he saw a meteor is evidently mistaken. Nothing is more difficult to determine than the course of a lighted body moving in the darkness; especially is this true when the observer is untrained, and optical illusions are more nearly the rule than a correct observance. The witness arose suddenly from bed and made his observations through a window. He is not sure that the body was moving laterally from east to west or coming down. It emitted sparks which fell some few feet and were extinguished. He lived five miles from the scene of the explosion. The report was heard a few seconds after the supposed meteor disappeared. Light and sight travel this distance instantly. It is entirely clear that he saw the light from the explosion reflected on his barn and that he saw one of the numerous balls of fire in the air which were seen by others. Sound travels 1,140 feet per second and it would take 25 seconds for the report to reach him after he saw the light, and this substantially agrees with his statement of the time. No other person saw or heard the meteor. If there had been a meteor and it struck the powder car, the engineer on the passenger train and his fireman would have seen it, as it approached directly in front of their engine, according to the witness. The witness is honestly mistaken concerning what he saw.

#### IGNITION BY SPARKS FROM BRAKESHOOES, FIREBOX AND SMOKESTACK.

The brakes were not set; hence no sparks on that account. Had there been such sparks, what follows would apply: There was a high wind blowing from the direction of the powder car towards the passenger train. The freight train had passed through an extremely heavy rain only a short time before. The earth was wet from the evening's rain, which had ceased only a short time before the explosion. The car presumably was properly cleated and had no holes in the sides or roof. Property which would be rendered useless by becoming wet would not be shipped in a defective car. The regulations of the railroad company and the vendor's reasonable effort to care for his customer forbid any other conclusion without satisfactory proof to the contrary. Sparks from brakeshoes, fireboxes and locomotive smokestacks are shortlived. The prevailing winds would have driven them from the powder

car. The first contact with the wet car or wet earth would have extinguished them. Brakeshoe sparks and firebox sparks would be inclined naturally to seek the vortex under the cars caused by the rapid movement of the train. If powder had been loose in the car and blown out through the spaces between the cracks, it would have at once become moist from contact with the wet earth. A spark to have entered the car would have had to travel a very tortuous and circuitous route to accomplish the results which we have present, while the passenger train was running 100 feet. Common observation teaches us that before such a result could come a train going at this speed would have passed. Under the circumstances present it is possible for ignition to have been produced in this way, but the chances are so few and remote as to place this theory out of the region of the probable.

#### IGNITION FROM HOT BOX.

Ignition from this cause could be produced only after the journal had become so heated as to extend the effect through the axle and iron framework of the trucks and through the king bolt to the powder, or by the box burning so fiercely as to fire the woodwork of the car, which would burn through to or so heat the powder that an explosion would follow, or there could be a sifting of loose powder through openings in the floor which might fall upon a moderately heated box and start an explosion. The hypotheses of heat passing through the framework of the truck, or a flame burning through the car, both fail for the reason that such a condition would have been plainly visible to the conductor and trainmen as soon as the train stopped, whether they had been looking for it or not, as heat or fire as fierce as that would force its attention upon the trainmen whether they were looking for it or not. The other hypothesis is destroyed by the presumption that there was no loose powder and no holes in the car floor, and finally it must be found upon the proof that there was no hot box discoverable by the trainmen on an inspection made only a few moments before the explosion.

#### IGNITION FROM LIGHTNING.

No person in the vicinity of Sandford observed any electrical disturbance at the time of the explosion. If there had been a visible discharge at the time of or immediately before the explosion, it seems probable that some one in the neighborhood would have observed it; yet we have no such knowledge. The engine crews of each of the three locomotives there at the time had ample oppor-

tunity to observe such a discharge, and, in fact, during a dark night such a discharge would have forced its observation upon them though they were not attentive. It has been claimed, although not satisfactorily established, that discharges occurred about the time of the explosion at points many miles removed from Sandford. Assuming that there were such discharges, the theory is advanced that the powder might have been ignited by the return stroke from such discharges. This phenomena which may accompany or follow an electric discharge in the atmosphere between the earth and the storm cloud is produced by and comes from a redistribution of the electric forces throughout the area affected by the discharge, thereby restoring the equilibrium disturbed by the discharge. At the time of the discharge the currents all tend to the point of highest tension and where the leak or break in the reservoir is about to occur, and when it does occur, all the currents rush there. When the flash passes the currents not liberated return to the area from which drawn and for like reasons. This surging of the currents to the point of discharge and the return movement after the discharge are not ordinarily perceptible as lightning flashes, but may be observed as spitting sparks from metals or tingling telephone bells and other like disturbances. Such drawing off and restoring of the electrical pressure, though not visible, is known to have produced death to persons and animals and to have resulted in explosion in mines and in the destruction of other property. The condition surrounding this powder car were not favorable to the action of a return stroke of this kind. Railway trains, to a certain extent, are considered immune from lightning strokes on account of the steel rails, poles and wires and their direct connection with the earth, to which all electric currents flow at the first opportunity. In addition to this condition, which is always present in railroad transportation, in this particular instance we had a car with a metal roof, the sides of the car were wet from recent rains, and presumably a dry floor in the car, and these things, as we are informed, operated to throw around this car the same conditions, in theory, at least, that surrounds a house protected against electric disturbance. And it is our notion that such current as might be passing in that vicinity, as the return stroke from distant lightning, would in the first place be taken up by the steel rails, poles and wires and carried to the earth, and that if any of it did reach the car, that the conditions surrounding the car were such that it would simply run around the outside of the car and not enter the car or reach the powder. The interior of the car under these circumstances is what

would be known as the interior of the envelope or a hollow conductor, and it is not understood that a discharge of this kind will penetrate a hollow conductor when protected in the manner this car was protected. Of course, these conditions would not protect the car in the same degree against an original discharge of lightning. We are unable to find that the firing of the powder in this way was impossible, but we do, without hesitation, find that it is highly improbable that ignition took place in this manner.

#### THE HUMAN ELEMENT.

There is a total absence of direct proof as to the presence of persons in the powder car. There is no theory concerning the explosion which is conclusive and which fits all the known facts and excludes every other hypothesis, save the theory of human intervention. When we examine that theory we assume certain necessary facts to exist of which we have no direct proof. Portions of two unidentified human bodies were found in the field a thousand feet north from the car. These persons may have been passengers; they may have been trespassers riding on the platform or trucks of the baggage car; they may have been passing along the track or upon the public highway, or they may have been in the powder car. Either one of these conclusions is as probable as either of the others, saving the fact that a passenger on the train or a traveler on the public highway would in all probability have been identified with the dead bodies within a reasonable time. If the car was cleated as required by the regulations, it would be necessary to have some tool or implement to enter the car, and the removal of the cleats would occasion some noise. Other cars in the train were not so cleated and could have been easily entered. Assume the presence of persons in the car and all the facts connected with the explosion may be harmonized. Exclude such assumption and we are left to speculation. If the human element does not enter, then the explosion may have been produced in many ways, as we have seen, but they are all improbable. That there were persons in the car seems to the Commission to be improbable; however, there is more consistency in such solution than in any other suggested cause.

#### RECOMMENDATIONS.

After a careful consideration of the evidence in these investigations, together with other facts coming to our knowledge during the performance of our official duties, we respectfully submit for the consideration of the Assembly the following recommendations:

1. There should be greater familiarity by employes with the rules governing the operation of trains and their conduct in railroad service; examinations of men thus engaged should be of frequent occurrence and emphasis should be most strongly laid upon the duty which the employe owes to the public. It should be the constant endeavor of operating officials in the railroad service who are brought in immediate contact with the employes to bring themselves into closer relations with the men, acquaint themselves with the individual capacity of the men and stimulate among the employes closer and more careful observance of the rules. Trains should be operated under certain definite rules which should be filed with the Commission, and officials and employes should be subjected to criminal responsibility for failure to observe these rules and the laws of the State concerning the operation of railroad trains. Therefore, we recommend the enactment of a law requiring steam railroads to publish printed rules and regulations for the operation of trains and to instruct their officers and employes therein and to examine them thereon at stated intervals; to require a convention of operating officials and trainmen and the Commission, to be held annually for the purpose of discussing the causes of accidents occurring within the State for the preceding year, with a view to the improvement of conditions and the prevention of their recurrence; to make it a misdemeanor for officers and employes engaged in train movement to be or become intoxicated or to operate trains in violation of the laws of this State or to operate trains in violation of the printed rules of the company.

We respectfully submit herewith for the consideration of the Assembly a proposed law upon this subject.

2. In view of the accepted conclusion that the block system, when installed and observed, is the best and most modern device for the prevention of collisions, and in view of the fact that for the year ending June 30, 1906, twenty-seven persons were killed and three hundred persons injured by collisions in this State, and in view of the fact that in the months of December and January, last, fifty-three persons were killed and 164 persons injured by collisions in this State in the two cases here reported upon by the Commission, and in view of the fact that the railroads of this State were never so prosperous as at this time, and in view of the further fact that a reasonably secure telegraph block system may be installed and operated on all the principal lines in this State with their surplus earnings accruing annually, therefore, we recommend that all steam railroads operating in this State, which have an an-

nual gross income from operation amounting to five thousand dollars or more, per mile, of line, be required within two years to install and operate on their lines in this State an improved block system; and that the Commission be given authority to extend this time if found necessary, and that it also be given authority to relieve any company from this duty as to branch or spur lines where no necessity therefor shall be made to appear, or when it shall be made to appear that the traffic of the company on any line is such that it can be handled without substantial risk on a line which is not so protected, and we respectfully submit herewith, for the consideration of the Assembly, a proposed bill for an act which expresses the views of the Commission upon this important subject.

3. The Commission realizes that a sweeping change in the age at which men may be employed in the railroad telegraph service, if put into effect at once, would work material hardship and perhaps damage to the railroads, and hardship and injustice to employes. However, this Commission, after mature deliberation earnestly recommends that as speedily as may be compatible with the conditions now existing, that the railroads in this State cease to employ in the telegraph service men of less than twenty-one years of age, that being the earliest age in the development of men's minds and bodies which warrants the assumption of the duties and responsibilities of a railroad telegrapher.

4. It is the deliberate judgment of this Commission that the speed maintained by the high class trains operating in this State is excessive and that this excessive speed contributed very largely to one of the accidents under investigation. We are of the opinion that the reckless demand of the public for this high and unreasonable speed should not be longer acceded to by the railroad companies. The condition of tracks and equipment and the great congestion of traffic and the lack of observance by employes of the rules provided for public safety forbid the further consideration by the carriers of this unreasonable demand by the public.

5. It is noted that a great many accidents take place from derailments. Many derailments resulted from the imperfect condition of the roads and the want of safety appliances. The latest quarterly accident bulletin of the Interstate Commerce Commission covers the months of July, August and September, 1906. During this period there were 1,182 passengers and employes killed, an average of nearly 13 every day. There were 3,672 collisions and derailments, 470 of which affected passenger trains. Of these there were 1,891 collisions and 1,781 derailments. If collisions occur because

men fail to obey the rules, it is also true that derailments are often the fault of railroad companies. If all the money derived from the over-capitalization of railroad corporations had been expended in safety appliances, in double tracking, in heavy rails and ties, many of these accidents would have been avoided. It was testified in the hearing before the Commission that the general manager of one of the great railroad systems operating in this State had requested of his company seventeen million dollars for repairs and improvements and had been allowed only seven million dollars. We recommend that in view of the great amount of business and the large and increasing earnings that the carriers of this State appropriate money enough to keep their roads and equipment in the best possible condition.

Respectfully submitted,

RAILROAD COMMISSION OF INDIANA,  
UNION B. HUNT, Chairman,  
C. V. McADAMS,  
WM. J. WOOD.

Indianapolis, Indiana, February 28, 1907.

A Bill for an Act to provide for the safe operation of railroad trains on steam railroads in this State.

Section 1. Be it enacted by the General Assembly of the State of Indiana, That every person, firm or corporation operating trains by steam power on railroads in this State shall publish printed rules for the control and operation of such trains and shall deliver copies thereof to all persons engaged in the operation of such trains and file a copy thereof with the Railroad Commission of Indiana, and shall instruct such employes in the application of such rules and examine such employes thereon at least once in each six months after employment until the service has continued for eighteen months and annually thereafter. Any person, firm or corporation failing to observe the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof, for each offense, shall be fined not less than twenty-five dollars nor more than two hundred dollars.

Sec. 2. Be it further enacted that the Railroad Commission of Indiana shall call together in convention, at least once in every year, the division superintendent and such other operating and dispatching officers and employes of the steam railroads of this State as the Commission may deem best, and shall place before said convention the reports filed with the Railroad Commission with reference to railroad accidents that have taken place during the year, together with such findings and conclusions thereon as such Commission shall have made, and said convention shall thoroughly investigate said reports, findings and conclusions and discuss the same with a view to taking such steps by the Commission, by such railroad companies and by their officers and employes as may be necessary or expedient to prevent such accidents.



Sec. 3. Be it further enacted that it is hereby declared unlawful for any railroad superintendent, train master, train dispatcher, telegraph operator, engineer, conductor or brakeman, engaged in the operation of railroad trains by steam power in this State, to be or become intoxicated while in the performance of his duties as such, and it is also hereby declared to be unlawful for any such person to operate any such train or give orders or directions for the operation of any such train contrary to the printed rules of his company, regulating the operation of railroad trains by steam power in this State, which are required by section one of this act, and it is further declared to be unlawful for any such person to operate any such train or direct the operation of any such train in violation of any law of this State, and any such person so offending shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than twenty-five dollars and not more than five hundred dollars.

Sec. 4. Be it further enacted that whenever the Railroad Commission of Indiana, in the investigation of any accident involving loss of life, shall come to the conclusion that the accident occurred on account of the violation of the printed rules for the operation of trains, as required by section one of this act, by any officer or employe of any railroad company operated by steam power in this State, the Commission may make a formal recommendation to such company for the discharge of such offending person and may also, if it deem best so to do, and the neglect of duty or violation of the rules is flagrant or has been brought about by the intoxication of any person while on duty, report such person to the prosecuting attorney of the county wherein the accident occurred for prosecution under the criminal laws of this State.

Sec. 5. Be it further enacted that copies of this act, within sixty days after the same goes into effect, shall be, by the companies subject hereto, printed and conspicuously posted in the train cabooses, depots, and offices of train dispatchers and upon the bulletin boards at division headquarters of said companies.

A Bill for an Act to promote the safety of passengers, employes and property in transportation over railroads by steam power.

Section 1. Be it enacted by the General Assembly of the State of Indiana, That after the 1st day of July, 1909, it shall be unlawful for any person, firm or corporation, or the lessee or receiver of any person, firm or corporation, which shall own or operate any line of railroad in this State, to operate any train over such railroad by steam power unless such railroad is equipped with and has in operation an approved block system for the control of train movements thereon: Provided, That the provisions of this section shall not apply to any such railroad as shall not have a gross annual income from operation of five thousand (\$5,000) dollars or more per mile of line, to be determined from its last preceding annual report to the Railroad Commission of Indiana.

Sec. 2. Power and authority are hereby conferred upon the Railroad Commission of Indiana to extend the time specified in section one of this act when it shall be made to appear to it that a reasonable necessity for such extension shall exist, provided that the extension so granted shall not exceed one year. Full power and authority are also conferred upon

such Commission to relieve any such party from complying with this act as to any branch or spur lines when it shall be made to appear that no reasonable necessity therefor exists. Full power and authority are also hereby conferred upon such Commission to relieve any such party from the obligations imposed by section one of this act when it shall be made to appear that the volume of traffic and train movement over any such railroad are such only that the same can be dispatched without substantial hazard to life and property over a line not so protected.

Sec. 3. Any person, firm or corporation, receiver or lessee who or which shall violate section one of this act shall forfeit and pay to the State of Indiana the sum of one thousand dollars per week for each week that trains shall be operated over any such railroad in violation of such section, the same to be collected by the Railroad Commission of Indiana by a suit in its name for the use of the State of Indiana in any court of competent jurisdiction.

#### NO. 117.—DANGEROUS HIGHWAY CROSSING AT HADLEY. —SEPARATION OF GRADE OF HIGHWAY AND RAILROAD.

Petition filed October 14th, 1906, of a great many, perhaps 100, citizens of Hendricks County, alleging that the wagon road grading of the Cleveland, Chicago & St. Louis crossing at Hadley, Hendricks County, was in a dangerous condition, praying that an investigation be made and an order requiring said railroad company to put the highway crossing in shape, should be made.

This matter was referred to Commissioner Wood, who made a personal examination of the condition of the highway and examined witnesses at Hadley. A preliminary report was made and afterwards a final report showing that the crossing of the railroad and highway at Hadley would be separated. Said report, as approved by the Commission, is as follows:

In accordance with the agreement of parties, the petitioners in this matter, represented by Otto E. Gully, attorney, and Mr. Baldwin, one of the resident engineers of the Big Four Railroad Company, representing the railroad company, met at the office of the Commission at 11 o'clock, this date, and finally agreed, with the approval of the Commission, to separate the grades of the railroad and highway crossing at Hadley, constructing the highway under the railroad and leaving twelve feet clearance, and to put in this crossing at a point directly west and adjacent to the present crossing. This matter thus being finally adjusted to the satisfaction of all the parties and the Commission, is closed.

### No. 118.—COAL CAR DISTRIBUTION.

December 6th the Indiana Fairmount Coal Company complained to the Commission that the Southern Indiana Railway Company did not distribute its coal car equipment among the coal mine operators on its line without discrimination.

On this complaint being filed the superintendent of the railway company was notified and an order entered directing the clerk of the Commission, with an assistant, to go to the coal mines on the line of such railway and to visit the officers of the railway company and to make a thorough investigation as to the method and manner of the company's car distribution. This duty was discharged and a voluminous report filed, which exhibited the method practiced by the company in coal car distribution and showed that the distribution had been unequal.

This proceeding being instituted before the last session of the General Assembly, when the law was amended, the Commission found itself without authority to make any effective order in the premises.

The railway company and all the mine operators, with one exception, furnished the Commission all the information desired by it. The Southern Indiana Coal Company, however, squarely refused to furnish the Commission any information. This is the company in whose favor it was charged that the railway company discriminated, and we have since learned that the entire capital stock of this coal company is owned by the railway company. The practices of this company, with reference to the coal car distribution, continued until after the legislature amended the law, when a formal proceeding was filed concerning the same and in that proceeding the subject was disposed of and reference is hereby made to the formal case No. 188, in this report.

### No. 119.—INFORMAL COMPLAINT BY LETTER THAT THE PERRE MARQUETTE RAILROAD COMPANY HAD FAILED TO GIVE THE TOWN OF PORTER, INDIANA, ANY FREIGHT AND PASSENGER SERVICE.

This matter was taken up by the Commission and resulted finally in the railroad company agreeing to open up a depot for business at that point. Instructions were issued accordingly to make Porter a regular station commencing January 1, 1907.

The railroad company agreed to stop certain passenger trains and to arrange to do such freight and passenger business as the locality would furnish. This arrangement proved to be satisfactory to the people of Porter, the Commission being so advised in a letter dated January 25, 1907.

The Commission having accomplished what was requested in this case the case was closed.

#### No. 120.—COMPLAINT ABOUT INTERSTATE COAL RATE.

Boswell Lumber Company, Boswell, Indiana, complained that the freight rate on hard coal to Boswell is \$2.00 a gross ton from East Buffalo, while the rate to Oxford, Indiana, Atkinson, Swanington, Fowler, Earl Park and other places similarly situated was only \$1.75 per ton.

This matter was presented by the Commission to the Lake Erie & Western Railroad by whom no action was taken so far as our records show. This matter being an interstate instead of an intra-state rate no further action was taken by the Commission.

#### No. 121.—FAILURE TO FURNISH CARS, CLOSING DOWN OF FLOUR MILL ON ACCOUNT THEREOF.

In the matter of the shutting down of the Igleheart Brothers' informal complaint to the Commission that their flour mill, one of the most modern and largest plants in the State, had closed down for want of cars to provide their plant with wheat.

This matter was promptly taken up by wire and long distance telephone by the Commission, with the result that cars were secured and furnished and the plant opened up, all of which is shown in the following report:

In the matter of the shutting down of the Igleheart Brothers' flour mill at Evansville on account of the scarcity of cars, I beg leave to report that this matter came to my attention on the 17th of this month; that on that day I had a personal conference with Mr. C. B. Compton, traffic manager of the L. & N., Mr. R. A. Campbell, general freight agent, Southern Railroad; Mr. D. H. Hillman, general freight agent, E. & T. H. R. R., and that I wired Mr. Convery, commercial agent of the Illinois Central Railroad. On the following day, the 18th, I again wired each one of these representatives of the carriers and had response by wire from them that

they would exert their utmost efforts to secure cars for Igleheart Brothers.

This morning, the 21st, I am pleased to state that I am in receipt of a letter from Igleheart Brothers, dated December 20th, 1906, addressed to me, reading as follows:

We are pleased to state that your efforts have resulted in securing us sufficient cars, for which we thank you.

Very respectfully,

(Signed) IGLEHEART BROTHERS.

This valuable food industry having been saved from further shutting down and from further loss by the efforts of the Commission, we may, I think, regard this matter as now closed.

Respectfully submitted,

(Signed) W. J. Wood,  
Commissioner.

#### No. 122.—APPLICATION FOR SWITCH CONNECTION.

On December 20th, 1906, W. W. Crane, of Sloan, Indiana, complained to the Commission that he was unable to make a satisfactory arrangement with the Chicago, Indiana & Southern Railroad to construct a siding at his elevator.

The complaint was taken up with the railroad's superintendent and it appeared during the investigation that this company had entered into a contract with other parties for elevator privileges at Sloan. The Commission expressed its views to the superintendent in a very vigorous manner and denied the right of the company to farm out elevator privileges to the exclusion of other applicants.

After considerable negotiation an arrangement was finally made for the installation of the siding.

#### No. 123.—GRAIN RATES.

The Kitchell Elevator Company and Goodrich Brothers' Hay and Grain Company filed a petition against the Chicago, Cincinnati & Louisville Railroad Company concerning rates on grain. The petition charged that this company charged more for shipping grain to Baltimore, Philadelphia, New York, Toledo, Pittsburg, Detroit, Buffalo and Cincinnati than the Pan-Handle did for like service from the same communities, and that the petitioners were compelled to buy grain in the same markets in competition with other dealers who had better shipping facilities over the Pan-Handle.

This matter was laid before the company and several hearings had and many negotiations conducted, resulting in the company finally publishing competitive rates, which were satisfactory to the petitioners and the petition was dismissed.

**No. 124.—LOCAL FREIGHT SERVICE AT WILLIAMSPORT.**

Complaint by the Williamsport Milling Company that the Wabash Railroad had discontinued the service of the way car for handling local freight and that the complainant was unable to make less than carload shipments of flour with convenience and safety without the service of a way car on which to load the same.

The complaint was presented to Mr. Sullivan, superintendent of the Wabash Railroad, and orders were issued to restore the service in accordance with the complaint of the petition.

**No. 125.—RATES ON HOOP LUMBER ON BIG FOUR AND PENNSYLVANIA AND L. E. & W. RAILROADS, NEW CASTLE, INDIANA.**

January 3d, 1907, New Castle Hoop Company complained to the Commission that rates on hoop lumber on the above roads to New Castle were prohibitive.

Matter taken up and several conferences arranged and carried on between complainants and representatives of the carriers. Carriers declined in all the conferences to reduce the rates and no formal application being filed this matter was closed.

**No. 126.—RATES ON HORSES AND MULES FROM MILROY TO INDIANAPOLIS.**

January 24th, 1907, Matthews & Booth complained informally to the Commission that the rate on horses and mules from Milroy to Indianapolis was \$28.00 per car, while the rate was only \$18.00 and \$19.00 per car from Rushville, via. C., H. & D. and Pennsylvania lines.

This matter was promptly taken up with the Big Four Railroad, and resulted, on April 2d, 1907, in the filing of a tariff by that road with the Commission making the rate on live stock from Milroy to Indianapolis 12½ cents per hundred.

This lower rate and adjustment was satisfactory to the complainants and the matter was closed.

**No. 127.—SERIOUS WRECK AT SANDFORD, INDIANA.—  
EXPLOSION OF POWDER CAR INVOLVING  
LOSS OF LIFE.**

This accident was investigated fully and carefully by the Commission at Sandford. Indiana, and at Terre Haute, in accordance with the joint resolution of the General Assembly of the State.

For full report of the findings and conclusions of the Commission see Informal Cause No. 116 of this report.

**No. 128.—COMPLAINT FROM PENCE, INDIANA, OF CAR  
SHORTAGE FOR GRAIN SHIPMENTS.**

This matter taken up with the C. & E. I. Railroad Company, who respond that complainants are receiving their full share of available equipment.

This letter forwarded to the complainant and nothing further being heard from him matter closed.

**No. 129.—GRAIN CAR SHORTAGE AT TALBOT, INDIANA.**

Complaint by V. A. Vaut against L. E. & W. Railroad Company that he could secure no cars to ship his grain. That his elevator was overflowing, farmers bringing in their grain and matters very serious.

This complaint taken up with H. A. Boomer, general superintendent of railroad company, who responded, after investigation, that complainant was receiving his share of available equipment.

This explanation of the company was furnished complainant and nothing further being heard from him the matter closed.

**No. 130.—CAR SHORTAGE.—GRAIN CARS, OTTERBEIN,  
INDIANA.**

Complaint of Buffy-Harrington, similar to complaint in No. 129. Same action taken by the Commission with like result. Matter closed.

**No. 131.—CAR SHORTAGE AT ROYAL CENTER.**

S. J. Carroll complained to the Commission that he was not getting his share of grain cars.

Matter taken up with railroad company. Matter investigated by them and no further action taken. Case similar to No. 129 and No. 130, above.

**No. 132.—INTERCHANGE AND SWITCH AT RICHMOND,  
INDIANA.**

Independent Ice Company, February 12th, 1907, complained to the Commission that a car of coal had arrived consigned to them on the C., C., C. & St. L. Railroad that should have arrived on P., C., C. & St. L. Railroad.

This matter was taken up with each of the railroad companies, with the view to getting this car from the C., C., C. & St. L. to the P., C., C. & St. L. tracks. Pending the efforts of the Commission the car was reconsigned and the Commission advised of that fact and the matter closed.

The general subject of local connection and interchanging of business between the above two railroads at Richmond became a matter of formal complaint by the Commercial Club of Richmond in formal cause No. 168, and local connection was ordered by the Commission, and the Pennsylvania Railroad has brought suit to set aside the order. This matter is now pending in the courts.

**No. 133.—RATES ON PIG IRON FROM BIRMINGHAM AND  
SHEFFIELD, ALABAMA, AND EVANSVILLE, INDIANA.**

February 12th, 1907, the Southern Stove Company complained that the L. & N. had advanced rates on pig iron 25 cents per ton, which matter was taken up by the Commission with C. B. Compton, traffic manager of the L. & N., who responded by letter setting out the position of his company in this matter. This response was forwarded to the complainants, and this matter being an interstate rate, nothing further was heard from complainants and no action taken by the Commission.

**No. 134.—CONSTRUCTION OF CAR SERVICE RULE NO. 1.**

Complaint of Burdsall Manufacturing Company of South Bend, February 11, 1907, that cars were not placed in twenty-four hours as required by Rule No. 1, and notwithstanding this fact the Car Service Association demanded demurrage.

Matter taken up with car service manager, who suspended action pending proper construction of the rule.

On March 29th the following letter on this subject was addressed by the Commission to the complainants, namely:



INDIANAPOLIS, IND., March 29, 1907.

The Burdell Mfg. Co., South Bend, Indiana :

Gentlemen—Responding now, finally, to your letter of February 19th, with reference to the proper construction of rule one, I am directed by the Commission to say the twenty-four hours' limit was intended to apply to the legal notice to be given consignee. If it were construed otherwise, that is, if it were held that in the event the cars were not placed within twenty-four hours the railroads would have no right to charge car service, why, then, the consignee could keep the car as long as he pleased. In other words, if for any reason there was a failure to deliver the cars in twenty-four hours, no car service could be charged, even though the consignee retained the cars for five, ten or fifteen days, or for even a longer time. Of course, a construction of this sort would defeat all the purposes for which car service rules are made, and the only proper construction is that the consignee must unload the cars within forty-eight hours after they are placed or pay the usual car service.

To remedy any hardship of this kind, or defect of this kind, I am directed to call your attention to the fact that the last General Assembly has enacted what is known as the shippers' bill. This section 4 clearly makes it absolutely obligatory on the railroad company to deliver the cars to the consignee within twenty-four hours, and provides further "in case any such carrier shall fail to so deliver any car it shall forfeit and pay to the consignee the sum of \$5 for each twenty-four hours, or major part thereof, that it shall fail to make delivery as required by this section 2." Therefore, while you will have to pay car service of \$1 for each day if you do not unload the car within forty-eight hours, on the other hand the railroad company will have to pay you \$5 for each twenty-four hours it fails to make delivery to you after the car has arrived. Our idea is that this provision will certainly secure prompt delivery, and if it does not it certainly places you in shape to get back more from the railroad company for failure to place the car than you have to pay on account of demurrage.

**No. 135.—CAR SERVICE COMPLAINT BY THE HAWKINS  
ELEVATORS AT FOWLER, CONCERNING CARS FOR  
GRAIN SHIPMENT ON BIG FOUR RAILROAD.**

This complaint was received February 13th, 1907, and taken up with Mr. Byers, trainmaster of the Big Four, and it appeared from his response that this company had been receiving its due proportion of the equipment available on that line for the transportation of grain and that the equipment of the company then available was not sufficient to satisfy the wants of its patrons.

A copy of this letter was furnished to the complainant, to which he made no response.

No. 136.—EXCESS CHARGE ON HOUSEHOLD GOODS FROM  
SANDUSKY, INDIANA, TO NORTH DAKOTA.

Complaint of Henry L. Sefton, formerly a citizen of Indiana, that he had been greatly overcharged on a car of household goods shipped by the C., C., C. & St. L. Railway. Shipped from Sandusky, Indiana, to Mandon, North Dakota.

While the Commission has no jurisdiction in claims and overcharges and has in many cases declined to exercise any power in these matters, this complaint was informally reported to the railroad company.

The matter was taken up, the overcharge corrected and the case closed.

No. 137.—GRAIN RATES TO WILLIAMSPORT, INDIANA.

Complaint by the Williamsport Milling Company that it was billed 9½ cents per hundred pounds on grain from stations between Veedersburg and Attica, Indiana, to Williamsport, Indiana, via the Wabash Railroad.

This complaint was taken up with the general freight agent of the C. & E. I. railroad, and with W. A. Sprott, district freight agent of the Wabash Railroad, resulting in the publication of a tariff on grain of 7 cents per hundred pounds, which met with the approval of the complainant.

No. 138.—RATE ON LOGS FROM SHELBYVILLE TO  
INDIANAPOLIS.

Adams & Raymond, February 25th, 1907, complained that Vandalia, P., C., C. & St. L. and Big Four had excessive rates on walnut logs from Shelbyville to Indianapolis.

Matter taken up with carriers and a correction made so that the rate from Freedom to Indianapolis will hereafter be 4½ cents instead of 7 cents. It was also agreed that proper corrections should be made as to the two cars in question. Matter closed.

No. 139.—COMPLAINT FROM LYNN, INDIANA, THAT THEY  
COULD NOT GET THE G. R. & I. RAILROAD TO  
GIVE CARS TO SHIP POULTRY.

February 25th, 1907, S. E. Adams made informal complaint to the Commission that he could get no car for the shipment of poultry and that he needed a car immediately.

Matter taken up with carrier, with the result that the Pennsylvania Company furnished the car required and the matter closed.

No. 140.—CAR FOR SAND.—BIG FOUR AND BELT RAILROAD, INDIANAPOLIS.

A. J. Barns, March 7th, 1907, complained that he could get no car placed on side tracks of Evans Milling Company for loading sand to be delivered to the Brown-Ketcham Iron Works.

The railroad company was called by telephone and agreed to furnish the car. Failed to do so on the date they said they would set it. Were called again by telephone, and on the following day the car was finally placed. Complainant was satisfied and the matter closed.

No. 141.—PROPOSED ADVANCE IN COAL RATES TO CHICAGO AND DIFFERENTIAL AGAINST INDIANA COAL. X

On March 11th, 1907, the Vandalia Coal Company and other coal companies operating in Indiana complained to the Commission that the carriers engaged in transporting coal from Harrisburg, Illinois, territory and from Southern Indiana territory, proposed to advance the rates on coal to Chicago. In making this advance it was also proposed to abolish the existing differential between the Harrisburg, Illinois, district and the Indiana district and to substitute instead a differential greatly favoring shipments of coal from the Harrisburg, Illinois, territory and greatly discriminating against operators in the Indiana territory.

This matter was taken up promptly and energetically by the Commission, and was promptly taken up and managed by the Interstate Commerce Commission, so that the proposed advance in rates was abandoned by the carrier.

This matter was of great interest, not only to the coal operators, but to the coal miners in the State. Mr. John Mitchell, the president of the United Mine Workers of America, believes that the proposed action by the carriers would result not only in the shutting down of Indiana mines, but in the destruction of the pending contracts for labor, then made to take effect and continue until the first day of April, 1908.

A detailed account of this matter is contained in the report of the Commissioner having this matter in charge, which is as follows:

IN THE MATTER OF PROPOSED ADVANCE IN COAL RATES TO CHICAGO  
AND DIFFERENTIAL AGAINST INDIANA COAL.

EVANSVILLE, IND., March 19, 1907.

To the Railroad Commission of Indiana:

In accordance with a telephone interview with the chairman of the Commission, I made a visit to Washington City, leaving Evansville on the morning of Thursday, the 13th day of March. I arrived in Washington at 2:15 p. m., our train being late, took a cab and went at once to the White House to fill the engagement to meet the President at 2:30 p. m. of that date. Shortly after I arrived at the executive office, the following gentlemen joined me, namely:

John Mitchell, President United Mine Workers of America.

John McFayden, Vice-President Vandalia Coal Co.

E. L. Wolford, Secretary and Treasurer United Fourth Vein Coal Co.

John K. Seifert, Mining Expert and Coal Prospector.

W. C. Butterworth, Newark Division B. & O.

Mr. Hammond, President Derring Coal Co.

I had been informed that a member of the Illinois Railroad Commission would join us, but he did not show up.

Soon after our arrival, the President entered the office, and we were presented to him. He greeted us most cordially. Immediately Mr. John Mitchell explained to him the nature of our business. Mr. Mitchell's remarks were supplemented by suggestions by Mr. Hammond, president of the Derring Coal Co., and by me, representing the Indiana Railroad Commission. The President asked us what he could do. We responded that we desired from him an introduction to the Interstate Commerce Commission, with a request from him to that body to give us a speedy hearing, whereupon the President wrote in his own hand on small slips of memorandum paper, the following note:

Dear Mr. Knapp—This is to introduce Mr. Wood, Railroad Commissioner of Indiana, and certain gentlemen representing the miners and operators of that State. They have what from their statement seems to be a very serious matter to lay before you.

They are in the city, the matter is urgent—can they not be heard speedily? I earnestly hope so.

T. ROOSEVELT.

March 15, 1907.

Leaving the President, we proceeded at once to the office of the Interstate Commerce Commission. The Commission was engaged

in hearing a case, but kindly consented, when we made known to them the emergency of our visit, that three of the members of the commission, Judge Prouty, Mr. Lane and Mr. Harlan, should hear us. Different members of our party gave full information to the commission of the status of this matter, and of the very serious effect that the proposed advance in rates would have. For the Commission, I went very fully into all the conditions of the coal traffic, market, output and rates in our territory and in the states which ship coal to the same markets that Indiana territory serves. We were able to show conclusively:

First, that a new differential was unjust, unfair, and impracticable.

Second, that any advance in coal rates might affect labor contracts and that hence there should be no advance at this time.

Third, that rates on coal should not be now advanced at all, because coal is a commodity of general consumption, and should be classed with raw material, hence, that if any advance in rates was to be made, it should be first made on other commodities and not on coal.

The members of the commission present seemed to concur in our views and suggested that we go at once to the attorney of the commission, Mr. Farrel, and give him all the facts in detail, with the names of all persons who desired to join in this complaint, to the end that a petition might be drafted which would be ready for filing with the Interstate Commerce Commission if necessary. In the meantime, the commission stated that they would take this matter up informally with the carriers, with a view to securing a declaration by them that they would not advance the rates on coal.

We finished the conference with the counsel for the commission by noon on Saturday, the 16th. I left Washington at 4:30 that afternoon and arrived in Evansville at 10 o'clock Sunday night.

On Tuesday, the 19th, I am especially glad to report that I was advised by wire and by Associated Press dispatches, that the carriers had abandoned their intention of making any advances on the rates in coal at least until April 1, 1908.

I think I am justified in saying that they came to this decision on account of the action of the operators and especially on account of the prompt and hearty co-operation of the Indiana Railroad Commission with the operators and with Mr. Mitchell, president of the Mine Workers. The fact that the Indiana Railroad Commission disapproved the advance in rates, expressed officially by the commissioner who represented the shippers' side of the case at Wash-

ington, was a powerful factor in accomplishing the results secured in this matter. I wish finally to say, that while it seemed to me that our Commission might not have been interested so much in the advance in the rate to Chicago, such an advance might have been the first movement in advancing the rates on coal throughout the State of Indiana.

We have, therefore, been advised how disastrous this would be to the manufacturing interests of the State, and hence I felt it to be my duty to protest against any advance whatever under present conditions. I believe I may also add to this report that, judging from my knowledge of conditions in the coal region of Indiana where I reside, that the Railroad Commission of this State could have taken no action which would be of more general benefit to coal operators and to coal miners on the one side and the general public whether consumers of coals used for domestic purposes or for manufacturing, than the work of the Commission has successfully accomplished in this behalf.

Respectfully submitted,

W. J. Wood,  
Commissioner.

#### No. 142.—SWITCHING CHARGES IN INDIANAPOLIS.

This is a complaint by the Peacock Coal and Mining Company concerning switching charges for the delivering of coal off the Vandalia Railroad to industries in Indianapolis located off its lines.

Considerable correspondence was had with the officials of the Vandalia Railroad concerning this subject. These negotiations resulted in an agreement by the Vandalia Railroad Company to absorb switching charges to all points on connecting lines in Indianapolis, on coal originating off its rails, as well as on coal originating on its line. The results of these negotiations were conveyed to the complainant and were satisfactory and the complainant expressed its appreciation of the successful result brought about by the Commission.

#### No. 143.—TRAIN SERVICE AT RAUB, INDIANA, C., C. & St. L. RAILROAD.

March 15th, 1907, D. A. Benson complained that the Big Four had withdrawn passenger service from Raub on Sunday and that the public was much inconvenienced thereby.

Matter at once taken up with general superintendent of Big Four, with the result that instructions were issued to stop trains No. 15 and No. 16 at Raub on schedule.

Complainant advised, who responded that arrangement was satisfactory and matter closed.

#### No. 144.—LACK OF CARS FOR GRAIN.

The Pierce Elevator Company vs. P., C., C. & St. L. and Big Four Railway Companies.

February 2d Commission received a letter from Pierce Elevator Company complaining that the P., C., C. & St. L. railway agent at Union City had been instructed to disregard any orders he might receive for empty cars for grain loading, as the Pennsylvania empties were inadequate to take care of shippers on their own line.

This matter was taken up with Mr. Houghton, general superintendent of the Big Four, who advised the Commission that there had been no discrimination against the Pierce Elevator Company and that it was simply a question of being able to secure sufficient cars.

The matter was also taken up with Mr. Guy S. McCabe, division freight agent of the Pennsylvania line. The matter rested there some time, but on September 27th was reopened by a communication from the Pierce Elevator Company advising that the Pennsylvania was again refusing to furnish cars on the ground that it would not supply plants located on its own line.

This matter was taken up with the Pennsylvania officials, and November 7th a letter was received from I. W. Greer, superintendent of the Logansport division, saying that it was his understanding that the elevator referred to was located on the tracks of the Big Four Railroad, in the State of Ohio, that when the Pennsylvania had enough cars to take care of its own elevators it would be glad to take care of this elevator, but it could not consistently do so otherwise.

The Commission advised the Pierce Elevator people of this correspondence and of its lack of jurisdiction beyond state lines.

#### No. 145.—CAR SHORTAGE, OTTERBEIN, INDIANA.

March 15, 1907, Otterbein Grain Company complained to Governor Hanly that they were not furnished cars for grain shipment and were in great distress on account of car shortage.

Matter referred by the Governor to the Commission. Promptly taken up with superintendent of L. E. & W. Railroad and put in shape by him and cars furnished as requested. Letter of carriers transmitted to the complainant and nothing further heard from them and matter closed.

No. 146.—ADVANCE IN GRAIN RATES.

On March 22, 1907, the Indiana Grain Dealers' Association complained to the Commission that railroads doing business in the Central Freight Association territory had published tariffs showing a substantial advance in the rates on grain to the seaboard and for export, to become effective April 1st. The Commission having knowledge that the carriers had failed to furnish equipment to transport the grain tendered, and that great quantities of grain had been purchased upon the faith of the rates in effect, and that elevators were filled with grain awaiting shipment under the contracts aforesaid, and being satisfied that the proposed advance would result in injustice to the grain dealers, did procure information concerning the amount of grain on hands and ready for shipment. This inquiry resulted in showing that over three million bushels of grain were stored in the elevators throughout the State, the greater part of which had been sold by the elevators and was awaiting shipment.

On acquiring this information the Commission sent out seventeen telegrams to the general freight agents of the principal lines doing business in this State. These telegrams read as follows:

"The grain elevators in this State have been demanding cars for grain movement for months. They have not been supplied. Houses are full, purchased and sold on the market and upon the existing rates. Proposed advance in eastern rates will result in great loss to operators on account of your failure to furnish cars to move traffic under present rates. Under the circumstances your proposed increase is not just to these dealers, whose traffic you have failed to move. Can't you postpone action until crop is moved and let dealers adjust their business? We will request Interstate Commission to waive notice."

Upon the same date we addressed a letter to the Railroad and Warehouse Commission of the State of Illinois and to the Railroad Commission of the State of Ohio, stating the facts and requesting their co-operation. No action was taken by the Railroad and Warehouse Commission of Illinois. The Railroad Commission of Ohio



very promptly joined in the request of this Commission, and wired the carriers doing business in that State, joining in the request. On the same date we directed a letter to the Interstate Commerce Commission requesting that body to grant the carriers permission to postpone the effective date of their published tariffs, provided the carriers should make such request.

Considerable negotiation was had between the Commission and the carriers, leading to an appointment with the Central Freight Association at Chicago to be held on the 28th of March. By direction of the Commission, Commissioner McAdams and the Commission's secretary attended this meeting and the action there taken appears in the following report made to the Commission:

"Acting upon the order of the Commission, the undersigned visited Chicago on the 28th instant for the purpose of presenting the complaint of the grain dealers of Indiana and Ohio to the traffic men of the C. F. A. territory. In addition to the undersigned the following were present at the meeting:

Commissioner O. P. Gothlin, representing the Railroad Commission of Ohio;  
 J. F. Coursier, secretary, representing the National Grain Dealers' Association;  
 A. L. Goetzmann, secretary, representing the National Federation of Millers;  
 J. W. McCardle, secretary, representing the Indiana Grain Dealers' Association;  
 J. W. McCord, secretary, representing the Ohio Grain Dealers' Association;  
 Mr. McMoran, secretary, representing the Miami Valley Grain Dealers' Association;  
 Fred Mayer, president of the Toledo Produce Exchange;  
 H. E. Kinney, representing the Indianapolis Board of Trade.

In addition to these representatives, many grain dealers were present from Indiana and Ohio.

After assembling, the parties organized by selecting Commissioner McAdams to act as chairman in the consideration and presentation of the complaint. After discussion and agreement upon the course to be followed, a meeting was arranged with the C. F. A. committee for 3 o'clock p. m. At the meeting the committee which heard us was composed of:

Mr. Tucker, chairman of the committee;  
 Mr. Ingalls, representing N. Y. C. lines west;

Mr. Hill, representing Pennsylvania lines west;  
 Mr. Ross, representing Clover Leaf;  
 Mr. Thomas, representing C., H. & D.;  
 Mr. Maxwell, representing Wabash;  
 Mr. Hillman, representing E. & T. H. and E. & I.;  
 Mr. Cook, representing C., I. & S.;  
 Mr. Webster, representing Nickle Plate;  
 Mr. Brister, representing Big Four.

At the hearing addresses were made by the chairman and the representatives above named, and by a few of the operators. Responses were made by Mr. Ingalls, Mr. Webster, Mr. Hill, Mr. Maxwell and Mr. Thomas. An elaborate presentation of the question was made and a general discussion followed covering all phases of the proposition, data submitted and an earnest request made for a suspension of the proposed advance to June 1st. The committee frankly acknowledged the importance of the question and the apparent hardship which seemed to be threatening many operators, and promised a careful and painstaking consideration of the questions involved.

Respectfully submitted,

C. V. McADAMS,  
 Commissioner.

C. B. RILEY,  
 Secretary."

March 29, 1907.

On March 30th, following the meeting at Chicago, the Commission was notified by wire by the various railroads that the date for the proposed advance in grain rates had been postponed until May 1st, with the consent of the Interstate Commerce Commission. Following this postponement of advance in rates, the Commission directed a letter to the carriers insisting that equipment be furnished during the month of April to enable the grain men to ship stocks on hand on the rates effective at the time the same were purchased. The carriers very promptly and successfully responded to this request of the Commission.

Subsequent to these negotiations, the Toledo Produce Exchange requested the Commission to join with it and the Railroad Commission of Ohio in a protest to the Interstate Commerce Commission against the proposed advance in rates to become effective May 1st. This matter was taken up by the Commission and thoroughly in-

vestigated. The views of the Indiana Grain Dealers' Association were obtained and a tabulation made of the proposed rates as they would become effective on May 1st. The action proposed by the Toledo Produce Exchange being inconsistent with the position assumed by the Indiana Grain Dealers and the Commission at the Chicago meeting and the Indiana Grain Dealers' Association being opposed to any such action, and the Railroad Commission of Ohio coinciding with such views, the Commission respectfully declined to be a party to any protest against the proposed advance in such rates, as the same appear to be levied equitably and not in the interest of any particular locality, and accordingly the Toledo Produce Exchange was notified that the Commission declined to join in the protest.

#### No. 147.—CAR SHORTAGE, EVANSVILLE, INDIANA.

March 22, 1907, J. C. Keller, manager, traffic department, Evansville Manufacturers' Association, addressed the following letter to the Commission:

EVANSVILLE, IND., March 22, 1907.

Hon. W. J. Wood, Indianapolis, Ind.:

Dear Sir—In view of the great scarcity of cars at Evansville, we deemed it proper, inasmuch as you are now in the city, to ask you to meet with the shippers Monday morning, March 25th, at 9 o'clock, at the E. B. A. building, in order to hear complaints and take such steps as you think necessary, as a member of the Indiana Railroad Commission, as will warrant relief for shippers, some of whom, I am informed, will be compelled to suspend business unless equipment sufficient to handle their business is furnished within the next few days.

Your truly,

J. C. KELLER,  
Manager.

In response to this letter the Commissioner had Mr. Keller to call together some of the shippers of Evansville to state the exact condition of car shortage in that city.

On Monday, March 25th, the conference took place, and at the conference Mr. Keller stated as follows:

I notified forty of our largest shippers to be present. Out of that number fourteen stated that they were not suffering greatly for want of cars, although they were inconvenienced, but the other twenty-six stated that they were suffering very greatly.

Mr. Hill, representing Hercules Buggy Company, stated that they used twelve cars a day. That within the last thirty days there had been five days when they had not been furnished cars. Today they needed twenty-one and had received only seven cars.

Mr. A. F. Karges of the Karges Manufacturing Company stated that they were very much hindered in their business on account of the car shortage.

Mr. J. D. Brose of the Sunnyside flour mill stated that they were in bad condition, that they had to shut down at certain times and unless relieved would suffer great loss.

Mr. John Igleheart, of Igleheart Brothers, stated that they had fifty-five cars of wheat that had been in St. Louis for thirty days, that unless they were relieved they would have to shut down.

Mr. Charles Von Behren stated that their firm had been delayed as long as fourteen days in getting cars and that they had suffered great loss from delays.

The above statements are representative of statements made by other parties. The Commission took this matter up with all the railroad companies whose lines touch Evansville and is glad to state that most of them promptly co-operated with the Commission to relieve the very serious condition found in that city.

The matter was taken up by telegrams and long distance telephones and letters and was pressed to the point where all the parties, who appeared before the Commission in its examination at Evansville, were relieved. The file in this matter contains letters from shippers expressing their gratitude to the Commission for its prompt and efficient action in this matter.

#### No. 148.—SWITCHING CHARGES AT MADISON; INDIANA, ON P., C., C. & ST. L. RAILWAY.

March 8, 1907, E. M. Campfield stated that he was overcharged for switching sand, brick and other building material from Madison to the new Southeastern Hospital grounds, where he was engaged in constructing a State institution at that point.

Matter taken up with the railroad authorities, who declined to reduce the rates. Complainant was advised that the Commission could do nothing further in an informal proceeding. He responded that he had referred the matter to his attorney, and nothing having been heard from him or his attorney, the matter was closed.

#### No. 149.—RATES ON BLOCK COAL.

On March 19, 1907, the block coal operators at Brazil complained to the Commission with reference to the differential in coal rates of 10 cents per ton against block coal.

The Commission thereupon called a conference of the C. & E. I., E. & T. H., and Vandalia and Big Four railroad companies' officials

to meet with the Commission and the coal operators, for the purpose of considering this subject. This meeting took place in the rooms of the Commission at ten o'clock, March 26th, and this matter was at that time submitted by the Commission to the carriers and shippers there present.

After full consideration there was an agreement between them and the Commission was informed that the complaint was withdrawn, which was accordingly done and the case closed.

**No. 150.—SWITCHING RATES ON COAL ON THE C., I. & L. RAILWAY AT BLOOMINGTON, INDIANA.**

Bloomington Milling Company, March 8, 1907, complained that the C., I. & L. Railroad, which formerly charged \$5.00 a car to switch coal from the Indianapolis Southern at Bloomington to their plant had advanced the rate to 25 cents per ton.

This matter was promptly taken up with the railroad company, but the general freight agent declined to restore the former freight rate. The complainant was so informed, but no formal petition having been filed, the case was closed.

**No. 151.—CAR SHORTAGE FOR GRAIN, NEW RICHMOND, INDIANA.**

March 28, 1907, A. E. Melsbary, complained to the Commission that his elevator at New Richmond, on the T., St. L. & W Railroad, was full of grain and cars needed badly and that he was unable to procure any by application to the railroad.

Matter taken up with the railroad authorities, who responded that Mr. Melsbary had received his full quota of cars, but that they would do all possible to increase the supply. April 5th complainant advised that he was receiving plenty of cars and expressed his thanks to the Commission and the railroad company, and the matter closed.

**No. 152.—CAR SHORTAGE AND RATES ON TILE SHIPMENTS FROM FAIRMOUNT, INDIANA.**

March 30, 1907, the Fairmount Tile Works, located at Fairmount, on the Chicago, Indiana & Eastern, complained that they could get no cars for shipping their product and conditions were such that their business was practically ruined.

Matter taken up with Receiver Bartlett, who stated to the Commission that his company had no cars, but that arrangements were about made for the P., C., C. & St. L. to assume control of the road, and that when this was done cars would doubtless be furnished for relief of complainant.

Complainant was advised of this situation, and nothing further being heard from them it was assumed that satisfactory arrangements were made for furnishing cars for them and matter was closed. The P., C., C. & St. L. assumed control of this line on May 1, 1907.

**No. 153.—CAR SHORTAGE FOR GRAIN AT ATHERTON, INDIANA.**

April 2, 1907, complaint was made by Cottrell Brothers that they were in great need of cars to ship wheat to Evansville, Indiana.

Matter taken up with the C. & E. I. Railroad authorities, who promptly responded that they had done and would do everything in their power to supply these cars.

April 29th letter from complainant that they had received cars within day or two after complaint had been made, with thanks to the railroad company and the Commission, and matter closed.

**No. 154.—CAR SHORTAGE AT LEHMAN, INDIANA, APRIL 6, 1907.**

United States Cement Company complained that the B. & O. S. W. Railroad failed to furnish them sufficient cars to do their business.

Matter taken up by the Commission with the railroad authorities. Letter received explaining cause of the delay and expressing their desire to do all that was possible. June 5th letter from E. W. Shirk, president of the United States Cement Company, saying that since complaint they had been furnished sufficient cars, and expressing thanks to the railroad company and the Commission, and matter closed.

**No. 155.—CAR SHORTAGE, GRAYFORD, INDIANA.**

W. J. Hair complained March 29, 1907, that they had ordered a great many cars and could get none for shipments of lime to Shelbyville, Indiana.

Matter taken up with Mr. Taylor, superintendent of P., C., C. & St. L. Railroad, who proceeded promptly to cause cars to be placed for complainant.

April 9th letter from complainant that they had been supplied with all the cars they required, with thanks to the railroad company and the Commission, and the matter closed.

No. 156.—CAR SHORTAGE, YEDDO, INDIANA.

April 8th complainant, John R. Reichard, called at the office of the Commission and made complaint in person that he had twenty cars of hay ready to ship and had ordered cars for the same, but had failed to get them and was in great danger of loss on account of his failure to secure these cars.

Matter taken up with C. & E. I. Railroad and Commission advised by them that Mr. Reichard had received his portion of available cars. Company agreed, however, to give him some relief at once. April 13th complainant advised that he had received five cars, and nothing further being heard from him it was presumed that he had received what cars he needed and the matter was closed.

No. 157.—COMPLAINT ABOUT ORDER TO REMOVE COAL BINS FROM RAILWAY, C. & E. I. RAILROAD AT BROOK, INDIANA.

March 7, 1907, Brook Building and Supply Company complained to the Commission that the C. & E. I Railroad Company had required them to remove their coal bins from railway and that this action would destroy their shipping facilities.

Complainants were advised as to their rights to have switching facilities, under the new Commission Act about to become effective, and nothing further being heard from them, it is to be presumed that the matter was properly adjusted between them and the railroad company, and the matter closed.

No. 158.—MANUFACTURERS' RATE ON COAL, MARION, INDIANA.

April 12, 1907, Marion Ice and Coal Company complained to the Commission that they were not allowed, in common with other manufacturers, the manufacturers' rate on coal.

Matter taken up with the railroad authorities, and on May 2, 1907, letter received from C. F. Perkins, coal traffic manager of the

P., C., C. & St. L. Railroad, that the complainant had been placed upon the manufacturers' list and would enjoy manufacturers' rates. The matter closed.

#### NO. 159.—VIOLATION OF FULL TRAIN CREW LAW BY WABASH RAILROAD.

On April 17, 1907, Elmer St. John of Fort Wayne, Indiana, complained to the Commission that the Wabash Railroad was violating the recent act of the General Assembly providing for full train crews on the steam railroad lines of this state.

This complaint, and other complaints of similar nature, were taken into conference and under consideration by the Commission. It was determined to take this matter up with the railroad authorities, which was accordingly done, and an agreement was arrived at that this law should be observed by the railroad companies until it could be determined by the courts whether or not the law was valid exercise of legislative authority.

With the consent of the Governor, Martin M. Hugg, Esq., of the Indianapolis bar, was employed as special counsel to properly represent the Commission in this case in the courts. In accordance with this employment and action, one of the cases involving this law was tried in the Circuit Court of Marion County, and the railroad was fined \$100. An appeal has been taken by the company to the Supreme Court, where the case is now pending.

Repeated inquiries having been made to the Commission for a construction of the full-train-crew law and the sixteen-hour law, opinions as to the construction of these acts were given out and published as follows:

#### FULL TRAIN CREW LAW.

An Act entitled an act concerning railroads and to better protect the lives of railway employes and the traveling public, and providing penalties for the violation thereof.

[H. 71. Approved February 13, 1907.]

#### RAILROADS—FREIGHT TRAIN CREWS.

Section 1. Be it enacted by the general assembly of the State of Indiana, That it shall be unlawful for any railroad company doing business in the State of Indiana, that operates more than four (4) freight trains in every twenty-four hours, to operate over its road or any part thereof, or suffer or permit to be run over its road outside of the yard limits, any freight train consisting of more than fifty (50) freight or other cars, exclusive of caboose and engine, with less than a full train crew, consisting of six persons, to wit: One conductor, one engineer, one fireman,



two brakemen and one flagman (such flagman to have had at least one year's experience in train service), and it shall be unlawful for any such railroad company that operates more than four (4) freight trains in every twenty-four hours, to run over its road, or any part thereof, outside of the yard limits, any freight train, consisting of less than fifty (50) freight cars or other cars, exclusive of caboose and engine, with less than a full crew for such train, consisting of five (5) persons, to wit: One conductor, one engineer, one fireman, one brakeman and one flagman: Provided, however, That a light engine without cars shall have the following crew, to wit: One conductor, one flagman, one engineer and one fireman.

#### PASSENGER TRAIN CREWS.

Sec. 2. That it shall be unlawful for any railroad company doing business in the State of Indiana to run over its road or any part of its road, outside of yard limits, any passenger, mail or express train, consisting of five (5) or more cars, with less than a full passenger crew, consisting of one engineer, one fireman, one conductor, one brakeman and one flagman (said brakeman or flagman shall not be required to perform the duties of baggage masters or express messengers).

#### MISDEMEANOR—PENALTY.

Sec. 3. That any railroad company doing business in the State of Indiana, who shall send out on its road, or cause to be sent out on its road, any train which is not manned in accordance with sections 1 and 2 of this act, shall be guilty of a misdemeanor, and upon conviction shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each offense, and such company shall be liable for any damages caused by the violation of any of the provisions of this act.

#### RAILROAD COMMISSION—DUTY.

Sec. 4. It shall be the duty of the board of railroad commissioners to have this law enforced.

Inquiries having arisen concerning the foregoing statute, the Commission, after consideration, construed the same as follows in an opinion delivered by:

Wood, Commissioner.—In construing the statute, the courts hold that the probable intention of the legislature must be kept constantly in view, and to ascertain this we must look not only to the letter of the law but to the law as a whole; to the circumstances under which it was enacted, to the mischief to be remedied and to the condition of affairs when the law was passed. The act in question is entitled "An act concerning railroads, and to better protect the lives of railway employes and the traveling public," and was introduced and passed, apparently for the purposes indicated in its title, at the request and insistence of the brotherhoods of railroad workmen.

The first section defines what is a full train crew for three classes of trains, namely:

1st. A freight train consisting of less than fifty cars, whose train crews shall never be less than six persons—one conductor, one engineer, one fireman, two brakemen and one flagman, "such flagman to have had at least one year's experience in train service."

2. A freight train consisting of less than fifty cars, whose train crew shall never be less than five persons—one conductor, one engineer, one fireman, one brakeman and one flagman.

3d. A light engine without cars, whose crew shall be one conductor, one flagman, one engineer and one fireman.

It will be noted that the statute does not define the qualifications of any employe mentioned in it, except the flagman. The engineer, conductor and brakeman, so far as the law requires, may be new men just put on their first runs, but the flagman, when first mentioned in the statute, is pointed out as a man who must have had experience for at least one year in train service; in other words, the statute defines the flagman. He must be a railroad man with one year's experience in train service, and being thus described, by the very terms of the law it follows that where he is mentioned again it is intended that the same sort of a person, the same kind of an employe is meant, unless some good reason arising from the subject matter of the legislation from conditions under which the statute was enacted, or the mischief to be remedied, should require a different interpretation. But, as a matter of fact, no reason can be given why a flagman for a train of more than fifty cars should have one year's experience in train service and a flagman for less than fifty cars, or for a light engine, should not be so well instructed. The same duties and the same responsibilities are devolved in either case and in equal degree in all these cases. If a flagman neglected his duties the consequences would be practically as disastrous to the lives of passengers and employes, whether he failed to prevent a collision with a train of fifty cars or a train of less than fifty cars or a light engine.

The necessary meaning is made clearer by the second section of the act. In this section a full passenger crew for passenger, express and mail trains is indicated, namely: "One engineer, one fireman, one conductor, one brakeman, one flagman." It is not said in this section that the flagman shall have had one year's service, but how absurd it would be to provide that the flagman of the highest grade of passenger trains, where the lives of so many passengers might pay the forfeit of his lack of experience, should be a new man less able to perform his duties.

One of the conditions of affairs at the time this law was enacted is significant. It was well known that the rule of seniority generally prevailed in the railway service of the country. Now, while in cases of emergency, or, indeed, whenever action becomes necessary, the duties of the flagman are extremely important, still it is an easier job than braking. The flagman, perhaps, ranks the brakeman. On some roads he is paid more; on some of the Pennsylvania lines twenty cents more for the round trip. It is his business to protect the rear end of the train, and the law in question indicates that he is to do this work exclusively. On passenger trains it is regarded an easy place, the flagman generally riding, as he must do, on the rear end in a Pullman palace car. Now, then, it seems to have been intended that this better position, with better pay on freight trains, and more comfortable work on passenger trains, should go to some man who had worked up to it rather than to a new man just put on to fit the job.

But suppose that the statute had not contained the descriptive, parenthetical clause, "Such flagman to have had at least one year's experience in train service." And, in fact, such description is not again used when flagman is mentioned in the act. Not any the less would we come to the conclusion that a flagman of one year's experience at least was intended. Considering the subject matter of this legislation, we know that a flagman, by the unwritten law or rule of the railroads, must have a year's experience in train service. Conductors are accustomed to insist on having an experienced man to protect the rear end of the train, and trainmasters often shift the crews so as to get an experienced man on the caboose of every freight train. Hence, if the legislature had enacted simply that a flagman should be put on and we applied to the carriers for a definition of the term "flagman," they would tell us a man of at least one year's experience was a flagman.

The title of the act presents to us vividly its scope and purpose with reference to the mischief to be remedied, and the mischief to be remedied is a controlling consideration in arriving at the meaning. "To better protect the lives of railway employes and the traveling public" a full train crew is provided, including a flagman. Now the same General Assembly which passed this act required by a very stringent law that the Railroad Commission should keep informed of the condition of the railroads with reference to the security of the public; provided for a department of inspection for this purpose; provided for the separation of grades of railways; provided a safety appliance act; required all accidents to be re-

ported to the Commission; required the installation of a block system on the railroads; required the companies to have printed rules, to instruct the men in these rules, and required the men to obey them. In other words, the General Assembly seems to have been impressed with the idea that drastic legislation was necessary to prevent the constant recurrence of fatalities, to the end that not only should the probability of accidents be avoided, but that, so far as the law could provide, the possibility of accidents should be greatly lessened. In this view of such legislation it would be inconsistent with all the conditions existing at the time this act was passed, and altogether inadequate for the purpose of correcting these conditions, if the General Assembly had provided that any member of a train crew should have less experience, that is to say, should be less competent than the carriers themselves ordinarily required in their train operation. The statute will admit of no such construction, and, following the clear, common sense, necessary meaning, we hold that hereafter in all cases flagmen on railroads in this State must have at least one year's experience in train service.

Indianapolis, Ind., June 3, 1907.

#### SIXTEEN-HOUR LAW.

An Act entitled "An act to promote the safety of employes and travelers upon railroads in the State of Indiana, by limiting the hours of service of employes thereon, providing a penalty and repealing all laws or parts of laws in conflict therewith.

[H. 517. Approved March 8, 1907.]

#### RAILROADS—LIMIT OF HOURS OF SERVICE.

Section 1. Be it enacted by the general assembly of the State of Indiana, That it shall be unlawful for any superintendent, train dispatcher, yardmaster, foreman or other railway official, to permit, exact, demand or require any engineer, fireman, conductor, brakeman, switchman, telegraph operator or other employe engaged in the movement of passenger or freight trains, or in switching service, in yards or railway stations, to remain on duty more than sixteen consecutive hours, except when by casualty occurring after such employe has started on his trip, or by unknown casualty occurring before he started on his trip, he is prevented from reaching his terminal, or to require or permit any such employe who has been on duty sixteen consecutive hours to go on duty without having had at least eight hours off duty, or to require or permit any such employe who has been on duty sixteen hours in the aggregate in any twenty-four-hour period, to continue on duty or go on duty without having had at least eight hours off duty within such twenty-four-hour period.

#### LIABILITY FOR INJURY.

Sec. 2. For any violation of or failure to comply with any of the provisions of this act, such company shall be liable to all persons and employes injured by reason thereof, and no employe shall in any case be held to have assumed the risk incurred by reason of such violation or failure.

#### PENALTY—RAILROAD COMMISSION.

Sec. 3. Any superintendent, train dispatcher, trainmaster, foreman or other official of any railway, in the State of Indiana, violating any of the provisions of this act, is hereby declared to be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, and it shall be the duty of the railroad commission to fully investigate all cases of the violation of this act and to lodge with the attorney-general information of such violation as may come to its knowledge.

#### WHEN NOT APPLICABLE.

Sec. 4. The provisions of this act shall not apply to relief or wreck trains while clearing obstructions to the main line of any railroad.

#### REPEAL.

Sec. 5. All laws and parts of laws in conflict with the provisions of this act are hereby repealed.

The Commission having been requested to give a construction to the foregoing act, commonly known as the sixteen-hour law, and entitled "An act to promote the safety of employes and travelers upon railroads in the State of Indiana by limiting the hours of service of employes thereon, providing a penalty and repealing all laws or parts of laws in conflict therewith," therefore, the Commission now expresses an opinion upon such act, as follows:

McAdams, Commissioner.—The act as drawn covers these propositions:

- (1) An employe who is at work and has already labored *for sixteen consecutive hours* shall not be permitted or required to continue on duty.
- (2) An employe who has worked *for sixteen consecutive hours* and is off duty shall not be required or permitted to go on duty until he has had at least eight (consecutive) hours off duty.
- (3) An employe who has worked *for sixteen hours in the aggregate* in any twenty-four hour period and is at work or off duty *shall not be required or permitted to continue on duty or go on duty* without having had at least eight hours off duty within such twenty-four hour period.

The fourth section of the act provides that no employe included in either of the classes above mentioned shall be exempted on account of his hours of service from being sent out on a wreck or relief train while engaged in clearing obstructions to the main line.

The first section of the act contains an exception, which, in terms, applies only to the employe designated in class one above mentioned, and this exception provides that one who has worked *for sixteen consecutive hours* and is at labor may continue until he reaches his terminal, provided he has been delayed in transit beyond the sixteen hours on account of some casualty occurring after he started on his trip, or by some unknown casualty occurring before he started on his trip. In the judgment of the Commission, the word "casualty" as here used means anything which occurs by chance or without design or without being a foreseen contingency. In short, the word as here used is synonymous with "accident," or "misfortune," and includes all causes for delay which were not foreseen or designedly brought about by the company.

Propositions one and two, as above classified, when applied to the same employe, prevent more than sixteen hours of *consecutive* labor if at work and secures eight hours of *consecutive* rest if off duty, thereby securing to such employe the two principal rights sought to be protected by the enactment of this law, namely: shorter hours of *consecutive* service and longer *consecutive* rest and relief from labor, both of which are now considered necessary in the safe operation of railway trains.

It is the judgment of the Commission that the officers of the company may lawfully assume that a train crew will make the schedule when starting upon a run, the scheduled time of which does not exceed sixteen hours, or which does not exceed the remainder of the sixteen-hour period which that particular crew may be required to continue on duty, and that if any unknown or unforeseen casualty results in delay beyond the scheduled time that the officers of the company will not be liable for sending the crew out or for not relieving it en route at the end of the sixteen-hour period, and that the crew may lawfully continue on duty until the terminal is reached. The railroads of the country could not be successfully operated upon any other assumption, and it will not do to assume that the legislature intended by this law to, in any manner, interfere with the dispatch of the carriers' business. This law was not enacted for the purpose of requiring less mileage between terminals or to require the establishment of relief train crews at all points on the line. On the contrary, its purpose was to prevent trainmen and other employes engaged in the train service from being compelled to continue on duty when they can be relieved at terminals or stations, and to prevent their being compelled to resume duty when at rest before the lapse of sufficient time in which to recuperate from their previous labors.

The difficulty in construing this act arises upon the third proposition as above classified. Such provision, which concerns *aggregate service*, in view of the ascertained purpose of the act and its other provisions, is, to say the least, unskillfully drawn and very uncertain and indefinite in application. No reason is apparent why an employe who has labored for *sixteen consecutive hours* should be secure in his right to eight hours of *consecutive rest*, while the employe who has labored for *sixteen hours in the aggregate* in any twenty-four-hour period may have the other eight hours of the twenty-four-hour period intended for rest divided into as many periods of short duration as the employer may choose to order and direct. For instance, according to the letter of this statute, when applied to an employe of this class, the employer may require the employe to work four tricks of four hours each and allow four rest periods of two hours each within the twenty-four-hour period and yet be within the letter of the law. No reason is apparent why a conductor who has gone between terminals in seven hours and rested two hours and started on the return trip on a seven-hour schedule and is delayed en route so that he is twenty miles from home when the sixteen hours' *aggregate service* expires, should be relieved by the management, that does not also apply to the same conductor if he had immediately doubled back and the *sixteen hours' consecutive service* found him twenty miles from home, or to a run between terminals on a sixteen-hour schedule where he is delayed more than *sixteen consecutive hours*. Why the exception as to casualties should apply to a consecutive service and not to an aggregate service is not apparent.

Therefore, the inquiry is, did the legislature, in its wisdom, intend to adopt two separate and distinct standards or measures of safety for the public and railway employes when applied substantially to the same class of employes and engaged in substantially the same service and under substantially like conditions? The act is a criminal one, hence it must be strictly construed and its penal provisions not applied unless clearly incurred; however, the construction must be such as will preserve the law and accomplish the objects sought by its enactment, and these, we have seen, were to shorten the hours of compulsory labor and to guarantee a lengthening of hours of consecutive rest. The law recognizes the physiological fact that at least eight hours of consecutive rest and relief from labor are necessary to restore to normal condition the mind and body of one who has toiled for the preceding sixteen hours, either in the aggregate or in consecutive service. The act is predicated upon

the theory that an opportunity for rest and recuperation must be extended and guaranteed to employes. It is fair to assume that the legislature had knowledge of the well-known facts that employes who run upon trains between fixed terminals or division points usually have permanent places of abode, many owning homes and having families at one of the terminals, and that the carriers and the employes, for mutual helpfulness and benefit to all concerned, have endeavored to arrange the trips and schedules of train crews so that employes will have their rest period at their homes where they may have the benefits incident thereto and enjoy the society of their families. It is not fair to assume that the legislature intended by this act to disrupt these habits of employes or disturb these arrangements of the carriers. On the contrary, we must assume that the purpose of the act was to secure rest to the employes at their homes or their fixed places of abode. The employes subject to the act are, first, all those who move on trains; second, all those who work in yards, offices, depots and towers. As to the latter class, there can be no difficulty in the application of the law. As to the trainmen, it is a well-known fact that one trainmaster, train dispatcher or other officer, may dispatch a crew on scheduled time, as we have seen he may lawfully do, and then surrender his trick to the next man, who may never know who is on the train or where it is, or whether it is making the schedule or being delayed; still he would be guilty of violating this law, if it is applied to the letter, if he did not relieve this crew at the expiration of sixteen hours of aggregate service. Some crimes can be committed in this State without purpose or intention, but we do not think the legislature intended by this act to punish the officer, except in cases where the officer knowingly required excessive hours of labor, or knowingly refused the proper hours of rest, and did so in cases where his power to prevent could be reasonably exercised under the circumstances.

Therefore, we conclude that the time when this law may be violated is when the crew at the terminal may be required to go on duty or continue on duty at that place, and that if, under the schedules, excessive labor is not apparently being demanded or rest has not been unlawfully curtailed the officers do not violate the law, even though subsequent casualties may delay the crew en route. It is our opinion that the exceptions with reference to casualties en route must be applied to an aggregate service by train crews, as well as to a consecutive service, and that the courts would apply such an exception to the law if it was not there written in the first



instance. We do not believe it was the purpose of this law to kill engines, side track trains and lay out crews at all times and places along the line. If such an application were to be made of the law it would result in more damage and inconvenience to the men, the company and the public than a continuance of conditions which we think the law was enacted to correct, and to which it should be reasonably applied. It is a well-known fact that this law was prepared and introduced and piloted through the Assembly by the Brotherhood of Railway Trainmen, and we are quite sure that they never intended that it should be applied in any case to take them from service en route or to disturb or destroy their manner of living; therefore, we suggest to them and the carriers that this law, which is a good one, be observed and applied in the manner here indicated until such time as its apparent defects may be corrected.

Indianapolis, Indiana, May 24, 1907.

#### No. 160.—CONSTRUCTION OF COMMISSION'S CAR SERVICE BUNCHING RULE.

April 17, 1907, the North Baltimore Bottle Glass Company of Terre Haute, Indiana, complained informally that the bunching rule of the Commission was so construed by the car service manager that improper charges were made against complainants.

The Commission advised complainant with reference to his rights. Afterwards, April 25th, a letter from complainant was received expressing satisfaction and asking for return of certain papers filed with his first letters. The papers were returned, and not having heard further from him it is presumed that this matter was settled by the car service manager satisfactorily to him and closed.

A part of the correspondence is of such general interest it is quoted here, as follows:

April 19, 1907.

North Baltimore Bottle Glass Co., Terre Haute, Indiana:

Gentlemen—Referring to your letter of the 18th, I am directed by the Commission to advise you that the most important changes made by the Car Service Rules of the Commission were as follows:

1st. The Indiana Car Service Rules provided that car service should be paid, regardless of weather. It is true the car service manager undertook to exercise the discretionary power of making an exception in certain cases, but in this shape the matter rested entirely with him. Without asserting here that he favored some men and was hard on others, it must be clear to you, as it was to us, that it was not safe to lodge so great a power in any one person. Therefore, the Indiana Commission Rule

No. 6 provided that in case of the severity of the weather reasonable additional free time should be allowed.

2d. The rules of the Indiana Car Service Association did not relieve the shipper from paying car service in cases where cars were bunched on him either for loading or unloading. Rules Nos. 4 and 5 of the Commission's rules clearly provided that where cars are so bunched beyond the consignee's usual and ordinary facilities to unload he shall have additional free time.

3d. The Indiana Car Service Rules made the car service manager practically the sole judge in all matters of car service. The Commission Rule No. 7 gave the shipper the right to make an affidavit showing why he should be relieved from car service, and in that case the decision of his claim was transferred to the local superintendent or local freight agent. In this way the shipper gets the benefit of the judgment both of the car service manager and of the agent of the railway company with whom he comes in daily contact.

The Commission found in the case in which it fixed the rules (and you know from your own experience) that there is a terrible car shortage in the country. It was perfectly clear, therefore, and subsequent events have confirmed this idea, that unless shippers loaded and unloaded cars with reasonable dispatch the business of the country would be paralyzed. We were compelled to have this important fact in view, but notwithstanding this fact, we made certain exceptions to car service charges, as stated above, of the greatest benefit and the greatest importance to shippers of this State. In applying the rules to your case the facts are not clear from the affidavit you have made. Shippers must pay car service on such cases unless there is some fault of the transportation which makes an exception in the particular case. Rule 5, which we presume you mean to invoke in this case, sets up clearly that if the cars are bunched on you you shall have additional free time. Now, please understand at this point that it is a question of fact, and possibly of law also, whether or not they were so bunched on you. The Railroad Commission has no authority to decide questions of this kind. The extent of our authority was to make the rule. When the rule was made it became the law of the case. But if the car service manager or the carrier and the shipper differ about the law or facts it is for the courts and not the Railroad Commission to decide who is right. We wish to make clear to you that the making of these rules conferred additional rights on the shipper and did not diminish them, and especially did not take away from the shipper the right in any case to go into the court and show that he ought not to pay car service.

As to the question of law that may come up in this case, we think that Rule 5 is clearly expressed and means what it says. If the bunching took place on account of delay or irregularity in either transportation or switching from the origin of shipment to the time of delivery, then we think that reasonable additional free time should be allowed. This was the intention of the rule and any other construction would make it impracticable.

We have gone to some length in writing you on this subject in order to help you to understand your rights in this matter. As said above, the Commission does not take up individual cases or settle questions of fact;

we have no such power. The Commission is not accustomed to disturb the settlements made by the car service manager or the railroad companies and shippers; to go into that would involve us in duties which would take all our time, and, as said before, the law has given us no such authority.

I am mailing you, under separate cover, a copy of the first annual report of the Commission. You will find on pages No. 118 to No. 126 the car service case, which came to the Commission, the rules made by the Commission and the opinion of the Commission, made by one of its members. If you will carefully look over these rules and the opinion I think that, guided by this letter, you will be able to determine what your rights are. If you can not do so, the courts are open to you, and you can appeal to them to be relieved of any charge you ought not to pay.

Respondent was again advised on April 23, 1907, as follows:

April 23, 1907.

North Baltimore Bottle Glass Co., Terre Haute, Indiana:

Gentlemen—Your letter of the 22d was received. I am directed to reply to your question by saying that the writer is inclined to believe that the delay or irregularity in furnishing empties at the initial point would be such a delay or irregularity in transportation as would justify the car service manager in giving you additional free time. As you have been heretofore advised, however, this will be a question finally for the courts, and we can not undertake to say how they would hold upon this point. The idea we have of this proposition is that car service is collected under car service rules; one of these rules allows a penalty of a dollar a day after forty-eight hours' free time. Another rule prescribes that where, on account of delay or irregularity of transportation or switching, cars are bunched, free time shall be allowed. This rule is of the same force as the first rule. It must be observed in car service dealings. Now, then, if you made your orders at different times in such shape as to bring the cars to your factory from week to week or from day to day, when you can unload them, and the carrier at the initial point furnished these cars, not from week to week nor from day to day, but all in a bunch, so that they came to you bunched, then it seems to the writer that this is such a delay or irregularity of transportation as would warrant the additional free time. Of course, the first question is whether cars actually bunched on you at the place of delivery, and then arises a question: Did this condition arise on account of the delay or irregularity in transportation? The furnishing of cars is a part of transportation, or so it seems to us, subject, of course, to the decision of the courts, as repeatedly suggested.

I regret that our first annual report was not forwarded to you the other day. It will certainly reach you in course of mail along with this letter.

#### No. 161.—WEIGHING COAL.

The Romona-Oolitic Stone Company complained that on shipments of coal from mines on the Vandalia Railway to points on the Monon Railway that the coal was billed at full weight, whereas

coal destined to points on the Vandalia Railroad was billed at a thousand pounds less than weight.

The complaint was taken up with the Vandalia Railroad Company, which admitted the substance of the complaint, and stated that it was required to so bill coal to points on the Monon on account of the requirements of that company.

The Monon Company declined to modify its regulations and the case is closed.

#### No. 162.—RATES ON LOGS FROM MILLIKAN TO NEW CASTLE.

Central States Cooperage Company, April 26, 1907, complained that the sixth-class rate is charged on logs from Millikan to New Castle, while a lower commodity rate from points on the Big Four, about the same distance, was in use.

Matter taken up with the officials of the C., H. & D., who declined to make the commodity rate and complainant so advised and no formal petition having been filed this particular matter was closed.

Note.—The rates on logs throughout the State were made a matter of general inquiry by the Commission and a mileage scale adopted. See formal case No. 132.

#### No. 163.—INTERLOCKING CROSSING OF L. & N. RAILWAY AND LIGHTING COMPANY WITH THE B. & O. S. W. RAILROAD.

May 1st, 1907, the traction company applied to the Commission to know whether or not it would approve such interlocking plans for the above crossing, known as half-interlocking.

Considerable correspondence and negotiation took place between the law department of the traction company and the Commission, with the conclusion of the Commission expressed in the following letter, May 31, 1907, which closed this matter.

May 31, 1907.

Hon. Chas. D. Kelso, New Albany, Indiana:

Dear Sir—By direction of the Commission, I am returning to you herewith proposed plans for interlocking the crossing of the L. & N. Ry. & Lighting Company with the B. & O. S. W. After due consideration, the Commission has concluded to not approve of these plans, and takes this opportunity of communicating to you and through you to your company that it will not approve plans for interlocking crossings of traction and steam lines which do not contemplate the construction of an interlocking

tower and the presence of an operator at all times, with derails in the tracks of both companies.

You are further advised that, in the judgment of the Commission, it is important that this crossing be protected as soon as possible, and you are requested to prepare plans therefor at once, and unless you proceed with reasonable dispatch to protect this crossing in the manner provided by law and as required by your contract with the B. & O. S. W. R. R., the Commission will feel called upon to enter an order upon its own motion requiring this crossing to be protected.

#### No. 164.—CONNECTIONS BETWEEN RAILROADS.

Prior to our last annual report the Commission, upon formal proceedings, entered an order requiring the C., H. & D. and Big Four Railroads to make physical connection between their lines and interchange carload business at Connersville, Indiana.

Each of these companies brought suit in the Fayette Circuit Court to set aside the order of the Commission. Subsequent to these proceedings and the adjournment of the last session of the General Assembly, the Commission renewed its demand on these companies to make physical connection in accordance with paragraph "L" of section 3 of the amended act prescribing the powers and duties of the Commission. Considerable negotiation was had between the companies and the Commission, resulting in their finally declining to make physical connection between their lines, unless compelled to do so, and they dismissed their actions pending in the Fayette Circuit Court. Whereupon the Commission, in the exercise of its duties under the law, directed the attorney-general to institute mandate proceedings against such companies to require them to comply with the law in reference to this connection.

#### No. 165.—CAR SHORTAGE ON BIG FOUR RAILROAD AT ADAMS, INDIANA.

May 1, 1907, Albert Bowling complained to the Commission that he had ordered cars at different times for wheat and was unable to secure them.

Commission communicated with general superintendent of Big Four Railroad and he responded explaining the situation and claiming that they had done all that was possible to do for complainant.

This letter was forwarded to the complainant on May 20th, who responded that while he did not agree with the general superintendent of the Big Four in regard to the facts, he was now being supplied with cars, and that, therefore, this matter might be closed.

No. 166.—CLASS RATES FROM INDIANAPOLIS, INDIANA.

May 2, 1907, Indianapolis Freight Bureau, through Joseph Keavy, commissioner, complained of the disparity in class rates from Indianapolis with class rates out of other competing cities.

This matter taken up by the Commission and on August 15th Mr. Keavy was advised that no satisfactory adjustment could be secured and that the Commission had instituted a general inquiry and had assigned the same for hearing October 1, 1907.

Note.—See formal case No. 161.

No. 167.—EXCESSIVE CLASS RATES TO ORLEANS, IND.

Johnson & Frost, May 3, 1907, complained to the Commission that rates were charged to Orleans, Indiana, from all markets, in excess of rates to Mitchell and other points similarly located and situated.

This matter was taken up and pressed upon the attention of O. C. Carter, general freight agent of the Monon Railroad, giving him tabulations of rates, etc.

On May 14th Carter declined to make reduction in rates complained of and complainant was advised of his action. July 1st complainant again asked the Commission for information, which was furnished to him. He was advised that we would proceed no further without formal complaint, and nothing further having been heard from him this matter was closed.

No. 168.—STORAGE CHARGES ON HEAD STONES FOR GRAVES OF OLD SOLDIERS.

Comrade Milton Carrigus complained to the Commission, through Col. J. R. Fesler, assistant adjutant-general of the Grand Army of the Republic, on April 22, 1907, that the Lake Erie & Western Railroad charged 10 cents per day for holding headstones for the graves of old soldiers in the freight depot at Kokomo, Indiana. That it was impossible for friends of the deceased soldiers, many of whom were poor and without relatives, to remove headstones to the graves within forty-eight hours, the time allowed by the storage rules, and that the storage charges were very burdensome to them.

This matter was assigned to Commissioner Wood, who took it up promptly on the same day with the general freight agent of the L. E. & W. Railroad, and on April 24th the following correspondence took place, which shows that this matter was settled to the

satisfaction of all parties, especially the friends and relatives of the old soldiers, and so, therefore, closed:

April 24, 1907.

Mr. Chas. B. Riley, Secretary Railroad Commission, Indianapolis:

Dear Sir—I desire to express to you my thanks for the very prompt manner in which you handled the case of storage charge on headstones at Kokomo. It is very gratifying to this department to know that your Commission is so willing to help the old soldiers, and we will be glad to reciprocate at any time the opportunity presents itself.

Again thanking you for your kindness, I am,

Yours very truly,

J. R. FESLER,

A. A-G.

#### No. 169.—COAL RATES.

An application by Coppes, Zook & Mutscher Company of Nappanee for rates on coal from mines on the Vandalia Railway Company to Nappanee via the Vandalia Railroad Company, and the Baltimore & Ohio Railway Company.

The complainants charge that they have never been able to use Indiana coal on account of excessive rates, that they have always been compelled to use coal from the Hocking Valley, which is carried the entire distance by the B. & O. Railroad Company. They insist on having the rate which the Vandalia gives to South Bend, namely, 95 cents per ton.

After considerable negotiation the best proposition the Commission was able to get from the Vandalia was \$1.10 from its Brazil district and \$1.20 from the Linton district.

Upon these rates being reported to the petitioner they represented that the same were so excessive that they would not be able to use the coal. However, they proposed to obtain a car of the best Indiana coal for the purpose of making a test as compared with Hocking Valley, and if the test proved satisfactory, to then file a formal petition with the Commission to procure a more reasonable rate.

#### No. 170.—COAL RATES, INDIANAPOLIS TO BROAD RIPPLE.

May 9, 1907; the Manufacturers' Coal Company of Indianapolis complained that there was no rate on coal from Indianapolis to Broad Ripple.

May 10th complainants were fully advised on this subject and of the proper manner in which they could secure either from the carriers, or through the Commission, these rates.

No response having been received from them, again on May 20th the attention was called to the former very full communication of the railroad Commission to them on this subject, and they were asked to indicate whether or not they desired to pursue the matter further.

Nothing since has been heard from them, and this matter was closed.

**No. 171.—PHYSICAL CONNECTION BETWEEN P., C., C. & ST. L. RAILWAY AND C., C. & L. RAILROAD AT RICHMOND, INDIANA.**

May 10th Commercial Club complained that there was no physical connection between the above-named railroads at Richmond.

Matter was taken up by the Commission informally, with the result that the P., C., C. & St. L. Railroad declined to make the connection at the point suggested by the Commission. Thereupon, on June 12th, 1907, the Commercial Club of Richmond filed its formal complaint against these companies.

The matter was taken up and considered by the Commission and an order made requiring these companies to connect their roads at Richmond.

Note.—See formal proceedings, Case No. 128.

**No. 172.—INTERSTATE RATES.**

The William S. Harmon Coal Company complained to the Commission that it was unable to procure through rates upon smithing coal from the Blossburg district, via the New York Central lines, to points in Indiana.

An examination, under oath, of the officers of this company was made by the Commission, and a transcript of the evidence forwarded to the Interstate Commerce Commission, with a complaint to require the New York Central lines to publish through rates on this coal to Indiana points.

This proceeding was had under paragraph "C" of section 11 of the act creating the Commission. Subsequent to the filing of the petition the New York Central lines published a tariff furnishing rates which were satisfactory to the petitioner, and at its request the petition was withdrawn.



## No. 173.—CAR SERVICE.

The Indianapolis Composite Brick Company complained of the Southern Railroad that it failed to furnish J. B. Speed & Co. at Milltown, Indiana, cars which they would permit to move via New Albany and the Pan-Handle to Indianapolis, for the shipment of lime necessary for the conduct of the complainants' business.

The complaint was taken up with Mr. Coffee, superintendent of the railroad, and after considerable correspondence the matter was adjusted and the petitioner has since been receiving the necessary service.

## No. 174.—STATION FACILITIES AT LEWIS CREEK, SHELBY COUNTY, INDIANA, ON P., C., C. &amp; ST. L. RAILROAD.

Complaint of Orra Amos, May 16th, that agent had been withdrawn and that there was no passenger or freight depot or facilities for doing business at Lewis Creek.

The Commission directed Inspector Matthews to go to Lewis Creek, make an inspection of conditions and report to the Commission. This was accordingly done, and the matter then taken up with the superintendent of the railroad, who on July 22 reported that the amount of business at that station was not sufficient to justify the construction of a depot and the employment of an agent.

On July 31st the complainant was advised that the railroad declined to restore station facilities, and inasmuch as the town had less than 100 population, the law did not give the Commission power to compel the construction of a passenger depot at this point.

July 31st, 1907, the Commission advised Mr. Taylor, the superintendent, that they desired him to furnish all the facilities consistent with the receipts at that point. No further complaint having been received it is presumed that he has done so and this matter is closed.

## No. 175.—VIOLATION FULL TRAIN CREW LAW.

May 22d complaint against the L. E. & W. Railroad for violation of the full train crew law was made.

This matter was taken up with Mr. H. A. Boomer, general superintendent, who responded, July 1st, explaining specific complaint. For action in this and other similar cases, see informal case, this volume, No. 159.

**No. 176.—REFUND OF CAR SERVICE CHARGES.**

In the matter of cars delivered to American Hominy Company, facts agreed on were that cars moving on the Springfield division of the C., H. & D. to Indianapolis, on account of not being equipped with air, were held until cars could be unloaded and grain loaded in other cars. Under such circumstances the demurrage charges accrued and the C., H. & D. Railroad, being willing to assume the charges on account of its failure to furnish other cars, it seemed to the Commission that the refund was justified and the complainant was so advised. The charges refunded and the matter closed.

**No. 177.—JOINT THROUGH FREIGHT RATES ON TRACTION LINES.**

May 18, 1907, the Marion, Bluffton & Eastern Traction Company complained to the Commission, asking the Commission to establish joint through freight rates for said company with the Fort Wayne & Wabash Valley Traction Company.

May 23, 1907, complainants advised that the Commission was without authority in such cases and matter closed.

**No. 178.—PASSENGER TRAIN SERVICE, WEST LEBANON, INDIANA.**

Town board of West Lebanon, April 29th, complained of the passenger service at that point, handled by the Wabash Railroad.

Matter taken up with railroad officials, and Mr. Henry Miller, general manager of the Wabash, advised the Commission that on June 9th, 1907, a new schedule would be put into effect, and that trains No. 52 and 53 would stop, but that Nos. 1 and 5 would not stop. Complainant advised of this action, and nothing further being heard from them matter closed.

**No. 179.—SETTING SIGNALS TO TEST EMPLOYES.**

A member of the Brotherhood of Locomotive Engineers, May 16, 1907, complained to the Commission that the railroad managements set their signals at danger when there was no danger, in order to test the efficiency of their men. He questioned to know whether or not this was legal.

Commission replied partly as follows:

There is a demand on the part of the public and among the men that the efficiency of railroad men shall be increased and in order to accomplish this any reasonable test may be applied.

If this practice that you refer to has this in view, it is praiseworthy. The Commission desires to encourage men and the companies for all efforts they may make for the protection of passengers and employes.

#### No. 180.—COAL RATES TO INDIANAPOLIS ON INDIANAPOLIS SOUTHERN RAILROAD COMPANY.

The Calora Coal company, May 3d, complained to the Commission that there were no joint rates on the Southern Indiana and Indianapolis Southern on coal.

Matter taken up and conferences between G. H. Jones, president of the Calora, and F. H. Harwood, Traffic coal manager Illinois Central Railroad Company, were held. At these conferences it was agreed that a joint rate of 65 cents per ton should be put in, which was accordingly done and the matter closed.

#### No. 181.—CLASSIFICATION AND RATES ON RAILROAD TIES FROM SOUTHERN POINTS TO RICHMOND, INDIANA.

May 18th, B. Johnson & Son filed correspondence with reference to the rates and classification of switch ties.

Matter taken up by the Commission, with C. E. Gill, chairman of Official Classification Committee. Complainant advised by letter, giving substance of Gill's letter, and saying the Commission is powerless to act further, except on formal complaint.

August 23, 1907, complainant advises that he desires to file proper complaint, but nothing further having been heard from him this matter was closed.

#### No. 182.—FREE TRANSPORTATION.

This was an inquiry by the Kokomo, Marion and Western Traction Company with reference to its right to issue free transportation in certain cases.

It appeared that the predecessor of the present company, when it procured its franchise from the city of Kokomo, agreed to furnish free transportation to the park commissioners and the superintendent of the City Park.

The Commission expressed an opinion that such contract was binding on the company, notwithstanding the late legislation, but that such free transportation to the superintendent of the City Park and to the park commissioners must be confined to the city limits.

The Commission in this matter expressed the further opinion that the act forbidding the use of free transportation did not apply to local city cars within the limits of the town of Kokomo, and the further opinion was expressed that said company might issue free transportation to policemen, good within the city of Kokomo, upon either city or interurban cars.

No. 183.—CLASSIFICATION OF VEHICLES AND WHAT FORMAL COMPLAINT SHOULD CONTAIN.

Fouts & Hunter of Terre Haute, Indiana, complained to the Commission that the chairman of the official classification committee had ruled that on vehicle shipments made by them the rates should be three times the first class freight rate, when they were really entitled to two and one-half times first-class freight rate.

This matter was taken up by the Commission with an extended correspondence with the chairman of the official classification committee, which resulted finally in a letter addressed by the Commission to the chairman of the official classification committee, to the effect that consignors were entitled to the rating which they claimed, and requesting for the application of this rating to the shipments of complainants.

No satisfactory response having been received from Mr. Gill, on May 28th, complainants were advised by Commissioner Wood, who had this matter in charge, that the chairman of the classification committee had declined to give them the rating requested by them and indorsed by the Commission, and that so far as interstate business was concerned this Commission was without authority to do anything more.

Complainants were further advised that so far as their intrastate business was concerned that nothing further could be accomplished without a formal proceeding. May 31st complainants answered asking information as to how the formal complaint should be prepared and what it should cover.

On June 3d, 1907, the following letter was addressed to the complainants and nothing else having been heard from them, this matter was closed.

June 3, 1907.

Fouts &amp; Hunter, Carriage Mfrs., Terre Haute, Ind.:

Gentlemen—Your letter of the 31st instant has been received. As has been indicated to you, the case you present is a very difficult one. You ask us what point your formal complaint should cover. We have only in mind the point that the rates charged you are excessive. If that is true: if for shipments wholly within this state you are charged more—i. e., higher rate than you should pay—your complaint may state that fact in the simplest possible language. We presume that you intended to state that you are a manufacturer of carriages and that you ship from Terre Haute, say, to Ft. Wayne, Indianapolis, and that the rates charged for the service between these points are excessive and unreasonable, and you should have concluded your petition by asking the Commission to require the carrier to make a lower rate to such points of destination as you shall mention in your petition.

The stating of the petition is simple enough. The gist of the whole matter is to give the facts. Are you really paying too much? If you are, then complain of that fact and ask the Commission to reduce the rates. That is all there is to the petition, and it will receive our consideration and issues will be tried, and if you are paying too much the rate will be corrected.

**No. 184.—REFUND FOR FAILURE TO LOAD TO THE MINIMUM. REFUND WHERE CAR WOULD NOT HOLD REQUIRED MINIMUM.**

On May 23d. W. A. Elward, of Wabash, Indiana, complained to the Commission, claiming that refund from the Wabash Railroad should be made on certain cars which were not loaded to the tariff minimum, and claiming also that in one case the car would not hold the required minimum.

This matter was referred to Commissioner McAdams, who, May 31st, advised the complainant, for the Commission, as follows:

May 31, 1907.

Mr. W. A. Elward, Wabash, Ind.:

Dear Sir—In response to yours of the 20th inst., concerning claims for refund from the Wabash Railroad, we have to say that the subject has been under consideration by the Commission, and I am directed in answer thereto to say that, in the judgment of the Commission, the Wabash Railroad would not be justified in refunding anything on account of overcharge occasioned by your failure to load to the minimum required by the tariff of the company. This is an interstate shipment, the tariffs for which were on file at the stations where you did the business, and under the ruling of the Interstate Commerce Commission and of the courts you are as much bound to know what the rate is and what the regulations are as the company, and it would be a violation of the law for the company to refund to you any overcharge arising from the fact that you had failed to load

the car to the minimum capacity required by the tariff; therefore, the Commission concluded that upon all the claims filed you are not entitled to a refund on that account.

However, upon the claim No. 311630, B. & O. car 166189, the Commission is of the opinion from your statement that a refund should be made by this company to the amount of \$8.17, for the reason that you state that this was an ore car and that your employes loaded the car to its entire holding capacity and that it would not hold the minimum load required by the tariff. It is the opinion of the Commission that the company can not publish a tariff fixing minimum carload weights and then furnish a car which will not hold in grain the minimum load as indicated by its stenciled capacity. This we have found to be true in several instances where ore cars have been furnished for coal shipment.

We have forwarded a copy of this letter to Mr. Becker, the Wabash claim agent, together with the suggestion that this claim ought to be allowed for the reason stated.

#### No. 185.—AUTHORITY REQUESTED BY CARRIER TO CORRECT RATE MISQUOTED BY LOCAL FREIGHT AGENT.

May 14, 1907, M. B. Maxwell, assistant general freight agent, L. E. & W. Railroad Company, requested authority from the Commission to protest in favor of the Greer-Wilkinson Lumber Company, Muncie, Indiana, the erroneous rate of  $4\frac{1}{2}$  cents on lumber from Muncie to Dunkirk, when the published tariff rate was  $6\frac{1}{2}$  cents, which Maxwell claimed had been overlooked by the local agent.

The Commission took this matter under advisement and through Commissioner McAdams gave its conclusions on this subject in the following letter:

May 31, 1907.

Mr. M. R. Maxwell, A. G. F. A., L. E. & W. R. R., City:

Dear Sir—Referring again to your communication of the 14th inst., file D34-O, I am directed to say that the subject has been referred to the Commission and has been considered by it, and I am directed to say that in the judgment of the Commission there can be but one lawful rate for the transportation of freight, and that must be the published rate of the company. The shipper is as much bound to know what the rate is as the company, and the fact that a local agent may misquote a rate to a prospective shipper is no justification to the company for charging the misquoted rate. No rate can be charged or collected except the published and lawful rate, and it will not do to say that a rate may be misquoted either purposely or accidentally by the local agent for the purpose of obtaining the shipments, or otherwise, and then bill the freight at the established rate and allow a rebate for the difference and attribute it to the mistake in quoting the rate. This, we understand, has been the ruling of the Interstate Commerce Commission and the courts where this question has been presented.

No. 186.—ABSORBING SWITCHING CHARGES ON COAL AT INDIANAPOLIS.

At different times in April, 1907, coal operators on the Southern Indiana, the E. & T. H. and the E. & I. Railroads, complained to the Commission that the Indianapolis lines made a switching charge at Indianapolis of \$2 per car, on coal off of these lines when delivered by the Vandalia and that the Vandalia would not absorb these charges.

These operators showed further that all other lines absorbed these switching charges for deliveries by their lines, and requested the Commission to take the matter up, and the Commission having determined that it was a matter for adjustment, arranged several conferences. At the request of the Commission the case was kindly and efficiently taken charge of by G. W. Davis, general freight agent of the Vandalia line, and the whole matter carefully considered, with the result that that Company agreed to absorb such switching charges the same as other companies, and published a tariff accordingly.

No. 187.—STATION FACILITIES, STEUBENVILLE, IND.

May 31st, informal complaint against the L. S. & M. S. Railroad Company and the Wabash Railroad Company that there were no adequate and suitable railroad facilities at Steubenville, Indiana.

This matter was referred to Commissioner Wood, who visited Steubenville and heard and took the testimony of witnesses at that point and had before him representatives of the carriers complained of. The Commission being advised that the situation demanded the construction of a depot at Steubenville, the carriers were urged to construct a joint depot at that place.

Upon their failure to do so a formal complaint was filed and formal order made by the Commission. Afterwards, the Lake Shore & Michigan Southern and the Wabash having agreed upon plans and division of expense to construct a depot at that place, and this case was closed.

Note—See formal proceedings, No. 148.

**No. 188.—CONSTRUCTION OF FULL TRAIN CREW LAW.  
ESPECIALLY QUALIFICATIONS NECESSARY  
FOR FLAGMAN.**

J. W. Coney, superintendent of the Pennsylvania line, Indianapolis, addressed a letter to the Commission asking construction of full train crew law and especially qualifications necessary for flagman.

Matter referred to Commissioner Wood, who, on the 31st of June, advised fully on the subject.

See construction of full train crew law, No. 159, these proceedings.

**No. 189.—CONSTRUCTION OF SIXTEEN-HOUR LAW.**

Frank M. Kistler, Esq., of Logansport, Indiana, addressed the Honorable James Bingham, attorney-general, asking construction of the sixteen-hour law for the benefit of employes of the Pennsylvania Railroad Company, living at Logansport.

The attorney-general referred this letter to the Railroad Commission, who, on the 4th day of June, 1907, through Commissioner McAdams, construed this law in a written opinion.

See opinion No. 159 of these proceedings.

**No. 190.—EXPRESS COMPANIES' DISCRIMINATIONS IN  
DELIVERING FREIGHT IN FT. WAYNE, INDIANA.**

On May 29th the Journal Company of Fort Wayne complained to the Commission about the practices and alleged discriminations of the express companies in that city.

This matter was regarded as of such importance that Commissioner Wood was requested by the Commission to visit Fort Wayne and report on the situation there. He did so, and on June 7th reported that he had visited Fort Wayne and had investigated the conduct of express business in that city, having called before him and examined C. P. Beaver, manager of the United States Express Company, L. B. Hubbard, manager of the American Express Company, W. M. Bordner, manager of the Pacific Express Company, and George B. Bickey, manager of the Adams Express Company. The Commissioner conferred also with Mr. Monahan of the Journal Company, W. Ninde, prosecuting attorney, and other prominent citizens, and reported to the Commission partly as follows:



"I find that it is the custom of the United States Express Company and the American Express Company, to deliver with their own wagons, within certain arbitrary limits prescribed by them, which does not include all of the territory within the corporate lines of the city. Outside of their free delivery limits the delivery is made by a local company, called the Merchants' Delivery Company. This company is instructed to collect their charges for their services from the consignee, if he will pay, but if he declines to pay, the local company is instructed to leave the package with the consignee and the compensation of the local company is then paid by the express company.

"This, I think, constitutes the same discrimination as we have found in the cases which we investigated at Indianapolis and in which suits for damages are now pending.

"I find that the Pacific Express Company and the Adams Express Company conduct their business in a different way. They also have contracts with the local delivery company to make deliveries outside of the limits they have prescribed, these limits not extending to the corporation lines. The local company is instructed by the express company to collect from the consignee, but in the event he will not pay to return the package to the storehouse of the express company; the consignee is then given notice by postal card to call and receive his package.

"I find that prosecutions were commenced by the prosecuting attorney under the act of 1901 requiring delivery in this State in the corporate limits of all towns of more than 2,500 inhabitants. The circuit judge held with the prosecuting attorney at first, but afterwards granted a new trial, reversed this holding and held that express companies were not required to make free delivery. The prosecuting attorney informed me that he had other cases and could and would commence prosecutions if requested so to do by the Commission. He informed me also that in the matter of discriminations he had information of a great many cases in which suits could be commenced. I said to him that the Commission might desire to have his assistance in these matters.

"In making inquiries as to what firm of attorneys it would be best for the Commission to employ, it appears that the firm of Leonard Brothers is one of the strongest in the city, and I am inclined to think it would be best for the Commission to secure the services of these gentlemen. I think it very clear that the volume of business in the courts at Fort Wayne is not so great but that we can get a speedy hearing. It is advisable also to commence these new cases,

because they may be commenced under the General Commission law passed by the last session of the General Assembly, and in the event the first act should be declared unconstitutional the cases commenced in Indianapolis would fall, and we could then go on with the Fort Wayne cases. I have no doubt that there are hundreds, and possibly more, of individual cases of deliveries made in accordance with the course of business I have set out above, and that the penalties accruing to the State in the aggregate from a prosecution of these cases would be a very large amount of money.

“Respectfully submitted,

“(Signed)

W. J. Wood,

“Commissioner.

“Indianapolis, Ind., June 7, 1907.”

On the coming in of this report the matter was deemed of such importance by the Commission that the clerk of the Commission was given authority to proceed to the city of Fort Wayne and conduct a further and fuller investigation of the express companies.

This was done by him on the 28th day of June, 1907, and thereafter a copy of his report as filed was referred to W. and E. Leonard, attorneys, who were directed by the Commission to commence suits for damages against these companies. Prosecuting Attorney Ninde was associated with Messrs. W. and E. Leonard in these cases, and the Commission has since been advised that twenty-five or thirty suits have been commenced against the companies and are now pending at Fort Wayne.

With reference to the delivery of express matter and to other practices of the express companies, and especially to the complaints against them of excessive and unreasonable rates charged by them, the Commission in July, 1907, commenced and prosecuted a general inquiry. The express companies were all made defendants and testimony taken and the companies heard and this matter is now pending and ready for conclusion.

See formal case No. 143 of this report.

**No. 191.—BOARD OF TRUSTEES, SOLDIERS' HOME AT LA-  
FAYETTE, VS. C., I. & L. RAILROAD COMPANY AND  
FORT WAYNE & WABASH VALLEY TRACTION  
CO. PHYSICAL CONNECTION AND IN-  
TERCHANGE OF FREIGHT.**

On June 3d the Commission received a letter from Governor Hanly enclosing a letter from Hon. W. S. Haggard, president of the board of trustees of the Indiana State Soldiers' Home at Lafayette, suggesting the importance of having switch connection and interchange of freight between the above-named companies, at Battle Ground, and suggesting that this would be a saving to the State of more than \$2,000.00 per annum, and requesting that some action be taken to bring this about.

Pursuant to this request, a meeting between the Commission and the representatives of the steam and electric roads mentioned herein was held at the office of the Commission, Wednesday, June 12th, for the purpose of considering the matter complained of.

Following this conference, a letter was written to Mr. Emmons, general manager of the traction company, suggesting that he take the matter up through the Commission.

The steam railroad by its general solicitor, Judge C. E. Field, advised the Commission that he did not think there was any law that would require an interchange of freight between steam and inter-urban roads, under any circumstances.

Following this correspondence the matter was taken up with President McDoel, by the attorney-general, with the end in view of securing an agreement between the roads. Later the matter was again called to the attention of the Commission by the Governor asking whether or not the Commission felt that this connection and interchange could be required. The Commission advised the Governor that it had so held in another case.

On November 22 a member of the board of trustees of the Lafayette Soldiers' Home advised the Commission that a contract had been prepared, arranging for the interchange required, which would probably be signed by all parties interested.

Since this time the Commission has received no further information.

**No. 192.—RATES ON LOGS.**

In June, 1907, the North Vernon Lumber Company filed an informal complaint with the Commission concerning rates on logs, also complaining of the practices of the carriers with reference to

milling in transit privileges and with reference to the weights of stakes and the expense of wiring log shipments. The matter was informally investigated by the Commission and such information acquired as to induce the Commission to institute an inquiry on its own motion, concerning rates on logs and practices connected therewith, under section 7 of the act:

This proceeding was conducted and determined by the Commission, and all the proceedings with reference thereto will be found in formal case No. 132, page — of this report.

#### No. 193.—SWITCHING CHARGES.

The Empire Stone Company of Bloomington, Indiana, complained to the Commission that the Monon Railroad had improperly charged it for demurrage and for switching cars which were overloaded.

The matter was referred to Commissioner McAdams and investigated by him and it developed that the stone company had overloaded two cars of stone at its quarry. When they were brought to the Bloomington station the cars were weighed and found to be overloaded. One of them was switched by the company to a neighboring quarry so that the load might be shifted. The other car was returned to the complainant's quarry, the load reduced and the shipment returned to the main line. The demurrage charges were for the use of the cars during the time of the extra shifting necessary on account of the overloading.

The Commission concluded that the railway company was without fault in the premises, and the matter being of considerable importance, the following letter to the complainant is here set forth:

INDIANAPOLIS, IND., July 31, 1907.

Empire Stone Company, Bloomington, Ind.:

Gentlemen—Referring again to your several communications of June 6th and 10th last on the subject of demurrage and switching charges imposed by the Monon Railroad Company, I am directed by the Commission to say that after considerable delay we have the response of the Monon Railroad upon this subject, and after a consideration of the same and the tariffs on file, it is the judgment of the Commission that, under the circumstances, you have not been imposed upon in these instances.

This service was rendered in February and March of this year, prior to the time when tariffs and switching charges were required to be filed with this Commission, and the company had the right at that time to impose any reasonable charge for the service rendered. Both of these charges came about from the fact that you overloaded the cars, and it

may be stated as a general principle that this Commission does not look upon any act which the shipper may do with less favor than that of overloading cars. Such a practice, if not discovered, not only results in carriage without compensation, but it endangers the lives of the trainmen who are compelled to handle the overloaded equipment, and also endangers the property of the company and the lives of travelers who may be injured on account of such overloaded equipment breaking down, causing wrecks and destroying lives and property. We, of course, do not apprehend that you intentionally overloaded any of this equipment, but we make this statement as a reason why the company may charge for the extra service which it was required to perform in readjusting the loads. There can be no escape, in the judgment of the Commission, from the demurrage charge for the length of time the equipment was tied up in readjusting the load, and the switching charge of \$2.00 for the transfer of the C., I. & L. car to the Hoadley Stone Company for the purpose of readjusting the load can not be said to be unreasonable.

With reference to the charge made by this company for taking the Pere Marquette car back to your quarry, shifting it to the derrick, shifting it back into the stone train and returning it to Bloomington and switching it back into the train for movement, the charge was \$10.00. The only tariff the company has on file with this Commission for services of that kind and which was effective at the time this service was performed is one cent per hundred pounds for the movement of stone from quarries to Bloomington. This service, of course, contemplates the taking of empty car from Bloomington to the quarry and returning it loaded. The only difference between the tariff on file and the charge made by the company is this: The company was required to return the excess load to the quarry, which was 64,200 pounds, and was required to return the readjusted load to Bloomington, which weighed 54,200 pounds. It is only reasonable to say that the company would be entitled to charge for this extra movement in each direction, and in the judgment of the Commission would have been authorized to have charged the one cent per hundred weight for the total tonnage in each direction, which would have amounted to a total charge of \$11.84 instead of \$10.00, the charge made.

It is unfortunate that this difficulty has arisen between you and the Monon Railroad Company, but the company, in the judgment of the Commission, is not responsible. It is the duty of the shipper when loading cars not to trespass upon the regulations of the company and to observe the stenciled capacity of cars. The reason the stenciled capacity is put on cars is for the information of shippers, so that they may not overload and thus hazard the lives of employees, the property of the company and the traveling public.

#### No. 194.—DEPOT FACILITIES, ELLETTSVILLE, INDIANA.

June 7, 1907, the president and clerk of the town board of the incorporated town of Ellettsville, filed a petition with the Commission alleging that some years ago the depot at that point had been burned and since that time no proper facilities had been maintained by the C., I. & L. Railroad Company at that point.

This matter was referred to Chairman Hunt of the Commission, who went in person to Ellettsville and made a careful investigation of the conditions at that point. Afterwards Chief Inspector Shane was sent to Ellettsville to look into the situation; and it being very important for the convenience of the public at that place, that a new depot should not be located at the point selected by the railroad company, blue prints of the town and streets, buildings and the tracks were prepared and submitted to the Commissioner having this matter in charge.

On July 17th, 1907, after a protracted conference with the railroad officials, a location entirely satisfactory to the town board and to the people of the town was agreed on. It was also agreed that the town should contribute to the purchase of the site the sum of \$200.00 and a voucher check for that amount was forwarded to the Commission.

Finally the depot was moved and constructed on the site agreed on to the satisfaction of all parties. A check for \$200.00, contributed by the city, was paid and this matter was closed.

#### No. 195.—REDUCTION INTERSTATE RATE ON STONE, NEW PARIS, OHIO, TO WINCHESTER, INDIANA.

City of Winchester, in letter to the chairman of the Commission, advises that a contract has been let for the construction of macadam street in that city, and that hard stone suitable for this construction could be obtained from New Paris, Ohio, provided the rate of 40 cents could be secured from that point to Winchester. Advising also that under the rules of the Interstate Commerce Commission the carriers would require thirty days to put this rate into effect, while it was important that the rate should be adopted at once, and requesting the intervention of the Railroad Commission of Indiana with the Interstate Commerce Commission to have this rate put in at once.

Whereupon, on June 8th, we wired the Interstate Commerce Commission asking that rate be authorized effective at once for street improvement at Winchester. June 18th Commission advised by general freight agent of the Pennsylvania lines that the Interstate Commerce Commission had authorized the reduced rates.

Mr. Crandall, city attorney of Winchester, was promptly advised that the proposed reduction had been authorized and made and this matter was closed.

No. 196.—INTERSTATE RATE ON CLOTH AND GLOVES,  
CHICAGO TO CRAWFORDSVILLE, INDIANA.

June 11, 1907, Gregg, Coutant & Gregg complained to the Commission of excessive rates on merchandise, namely, cloth, gloves and mittens, from Chicago to Crawfordsville, Indiana.

This matter taken up by the Commission and letters addressed to and communications received from the Monon, Big Four and Vandalia companies.

On August 6th, 1907, complainants advised that these companies declined to accede to their demands and this being an interstate matter this Commission has no authority to proceed further.

No. 197.—ALLEGED REFUSAL TO RECEIVE ICE FOR  
SHIPMENT.

June 20th E. A. Wurtsbaugh complained that the Wabash Railroad would not receive ice for shipment at Marshfield, Indiana.

This matter taken up with the Wabash Railroad and superintendent replied formally, June 24th, that they had never had any business transaction of any kind with complainant and had never had any request on the part of any one to ship ice to Marshfield and that there had never been any ice offered for shipment to or from that station.

Complainant advised of the carriers' reply and on June 28th responded "I have got my ice now and everything is all right."

Matter closed.

No. 198.—COAL RATES ON BLOCK COAL, CLAY CITY, IN-  
DIANA, TO CHICAGO.

June 18th Harrison Coal and Mining Company complained to the Commission that rates on block coal from Brazil and other C. & E. I. points and on the Vandalia had been reduced from 80 cents to 70 cents, while the rate from Clay City to Chicago was not reduced, but remained the same.

This matter taken up by the Commission in an effort to have reduction made. Carriers declined to make reduction, and on July 18th complainants advised that the Commission was unable, in an informal way, to secure the reduction asked for, and inasmuch as the rate complained of was an interstate rate, the Commission had no jurisdiction to proceed formally.

This matter was, therefore, closed.

### No. 199.—SWITCH FOR ELEVATOR AND GRAIN HOUSE.

June 24th T. H. Wiggs of Elizabethtown, Indiana, complained to the Commission that he needed badly a switch to connect the track of the P., C., C. & St. L. with his elevator and grain house. That he had had the matter up with the railroad company, but without result. This matter was referred to Commissioner Wood, who thought it best to arrange a conference between complainant and B. W. Taylor, superintendent of the carrier, which conference took place, and during the same the railroad company having shown that it had been heretofore willing, and was still willing, to put in this switch on terms regarded by the company as fair, and that it was still willing to put in the switch within the next thirty days, and this being finally satisfactory to the complainants, the matter was closed and parties requested to communicate final action to the Commission.

The Commission was afterwards advised that this switch had been duly constructed.

### No. 200.—JURISDICTION OF INTERURBANS.

On the 11th of June the Indiana Union Traction Company had an accident at Thirty-eighth street and College avenue, resulting in the death of three persons and the injury of two other persons. Company failed to report the accident as required by statute and its attention was called to the matter, and the company claimed that the part of its line where the accident happened and the car causing the accident were not subject to the jurisdiction of the Commission. The car causing the accident was one of the company's White City cars plying between Indianapolis and Broad Ripple Park.

The Commission concluded that the company in this service was subject to the control of the Commission, and in response to the company's contention the Commission sent the following letter to its general manager:

INDIANAPOLIS, IND., June 21, 1907.

Mr. H. A. Nicholl, Gen. Mgr., Ind. Union Trac. Co., Anderson, Ind.:

Dear Sir—We have yours of the 19th inst., in which you state that the car which killed three people recently between this city and Broad Ripple Park was one of your White City cars, which operate between Indianapolis and Broad Ripple Park.

The exceptions to section 21 of the act approved March 9, 1907, amending the act creating the Railroad Commission, provide as follows:

"The provisions of this act shall not apply to street railroads engaged solely in the carriage of passengers within the limits of any cities or towns



in this State. The provisions of this act shall not apply to any street railroad company in so far as it may engage in the carriage of passengers in its local town or city cars within the limits of any towns or cities of this State or their suburbs."

We understand that the company which operates the street car system in the city of Indianapolis is the Indianapolis Traction & Terminal Company, and that it is an entirely separate corporation from the Indiana Union Traction Company. We further understand that all the so-called interurban companies entering Indianapolis operate over the tracks of the Indianapolis Traction & Terminal Company to the Terminal Station. And we understand the Indiana Union Traction Company is the only line that operates cars between Indianapolis and Broad Ripple Park, and that these cars are run over the line of the Indiana Union Traction Company to the city limits and then over the lines of the Indianapolis Traction & Terminal Company through the city.

We understand that the interurban cars, so-called, and your White City cars, so-called, do not do a regular city business within the limits of Indianapolis; that they do not issue transfers either to persons out-bound or in-bound, and from these considerations it is the judgment of the Commission that the Indiana Union Traction Company, in the operation of the White City cars, and all other companies, in the operation of their so-called interurban cars into and out of the city of Indianapolis, are not engaged solely in the carriage of passengers within the limits of cities and towns within this State, nor are they engaged in the carriage of passengers in local town or city cars within the limits of towns or cities or their suburbs, as provided in the exceptions to the act as above noted.

Therefore, it is the judgment of the Commission that it is the duty of the Indiana Union Traction Company to report to it the facts concerning the accident noted in previous letters of this correspondence, and that the jurisdiction of the Commission extends to the control and supervision of all such cars in all the service they perform from the time they start at the Terminal Station until they return to that station, including the revenue derived by them from business done within the city limits.

#### A. R. 201.—RATES ON ROAD MATERIAL, MONON TO ROSE LAWN AND THAYER.

On July 2, 1907, board of county commissioners of Newton county complained that the rate on gravel and road material from Monon to Rose Lawn and Kentland was 50 cents a ton, and that such rate was excessive. This was promptly taken up with the general freight agent of the C., I. & L. Railway Company, who finally responded July 17 that 50 cents a ton was the best rate that can be made and ought to be satisfactory. Complainants were advised accordingly. However, the matter of rates on road material was made a matter of special and formal inquiry by the Commission, formal case No. 135 of this report.

**A. R. 202.—RATES AND SWITCHING CHARGES ON COAL,  
BLOOMFIELD, INDIANA.**

June 29, 1907, Minor F. Pate, attorney for the Home Light and Water Company and Bloomfield Milling Company, of Bloomfield, complained that these companies are charged a freight rate of more than 80 cents a ton for a haul of about twenty miles on the C., I. & L. Railway and the Indianapolis Southern Railroad, and that the said C., I. & L. Railway Company refuses to receive or deliver coal from the Indianapolis Southern Railroad Company. On July 2d complainant was fully advised of his rights in this matter, but no formal petition having been filed, and no other communication received from him, the matter was closed.

**A. R. 203.—VIOLATIONS OF FULL CREW LAW.**

This file contains complaints from various parties, and several reports of our inspectors with reference to violations of the full crew law. For the action of the Commission with reference to these complaints and to all violations of this law, see informal case No. 159.

**A. R. 204.—TRAIN SERVICE AT WINCHESTER, INDIANA.**

Early in July complaints were made to the chairman of the Commission that the train service at Winchester was insufficient. Citizens of Winchester especially desire that No. 27, formerly No. 29, should stop at Winchester. July 3d this matter was taken up with Mr. Houghton, general superintendent of the Big Four Railroad, and on the 6th Superintendent Houghton advised that, effective Sunday, July 7th, he would have No. 27 stop at Winchester regularly. Chairman Hunt, in whose charge this matter was, replied, with expression of thanks from the Commission at the prompt and satisfactory solution of this matter, and the same was closed.

**A. R. 205.—PASSENGER RATES, ELWOOD TO GARY, IND.**

H. H. Wilkie complained July 8th that tickets were not sold by the P., C., C. & St. L. R. R. from Elwood to Gary and to Hammond. This matter was referred to the chairman of the Commission, who had a personal interview with C. F. Richardson, A. G. P. A. of the P., C., C. & St. L. R. R., with the result that on July 27th Wilkie was advised that the Pennsylvania Railroad would sell tickets between Crown Point and Elwood on all trains that stop at Crown

Point. That Gary is not located on the line of the road between Elwood and Chicago, but on the Fort Wayne branch of the road. Complainant was further advised that the Pennsylvania Railroad agrees as soon as they can get their tariffs in shape to arrange so that tickets will be sold to all stations at which trains stop regularly, and the matter closed.

#### A. R. 206.—PROTECTING CROSSINGS AT SPENCER, IND.

The town of Spencer, July 3, 1907, through Homer Elliott, its attorney, complained to the Commission that an ordinance had been passed requiring the Vandalia Railroad Company to maintain watchmen at two very dangerous crossings. That thereupon some negotiations had taken place between the railroad company and the town authorities, with the result that the railroad company agreed in the place of watchmen to install electric bells at said crossings. At the time the complaint was filed thirty days had elapsed since the agreement was made, but that nothing had been done to install the bells, as agreed on. This matter was referred to the chairman of the Commission, who, on July 8th, took the same up with Mr. J. W. Coneys, superintendent of the Pennsylvania Railroad Company, with the result that Mr. Coneys gave satisfactory assurances that the electric bells would be installed as soon as it was possible to secure them. It was shown that the demand for these appliances had been so great that it was impossible to have an order filled quickly. Mr. Coneys agreed to personally do all he could to secure the quick shipment and installation of the electric bells, and nothing further having been heard, it is presumed that these have been duly installed and this matter is closed.

#### A. R. 207.—PASSENGER RATES.

McAdams. Commissioner.—In July, J. W. Ritter, of Indianapolis, complained to the Commission that the Indiana Union Traction Company was unjustly discriminating in charges for transporting passengers between Indianapolis and Broad Ripple, and intermediate points. The complaint was submitted to that company, and it filed a statement of facts and submitted a brief upon the questions involved. These have been considered by the Commission, and after considerable delay the Commission determines from this investigation that the controlling facts are substantially as follows:

The north corporation line of the city of Indianapolis is at Forty-second street and the south corporation line of the town of Broad Ripple is at Fifty-fourth street, there being a space of about 8,000 feet between the corporate lines of the two municipalities. The Indiana Union Traction Company is organized under the laws of this State providing for the organization of street railroads and has lines extending to Broad Ripple, Broad Ripple Park, or White City, Anderson, Muncie, Logansport and other cities and towns north and east of Indianapolis. The tracks of this company over the line in question terminate at Fair Grounds avenue, midway between Thirty-fourth and Thirty-sixth streets, on College avenue, and there united with the tracks of the Indianapolis Traction and Terminal Company, a like corporation operating the street railway system in the city of Indianapolis. The traction company operates its cars over the city lines; some to the terminal station and others over certain fixed city streets. For this privilege certain compensation is rendered to the terminal company, as will appear from later statements. The traction company renders a varied service as follows:

1. What it styles the regular interurban service with the regular interurban equipment, extending from the various points which it reaches throughout the State and terminating at the Traction Terminal Station. For this service it pays to the Terminal Company 4 cents for each passenger carried into or from the city.

2. What it styles the city service, which is performed with open cars in warm weather and small interurban or large city cars in the winter. This service extends from Broad Ripple Park through Broad Ripple and through the city of Indianapolis, around a loop composed of Ohio, Illinois, Washington and Pennsylvania streets, leaving and arriving on Massachusetts avenue. For this service it pays to the Terminal Company 3 cents for each passenger carried over the Terminal Company's lines.

The fares charged by the traction company are fixed by ordinance of the city of Indianapolis and the town of Broad Ripple and by the company, and are as follows:

1. Between all points in Indianapolis, 5 cents.
2. Between all points in Broad Ripple, 5 cents.
3. Between Broad Ripple and Indianapolis, in each direction and intermediate points, 10 cents, to which excess may be added on limited interurban cars.
4. By the terms of an ordinance of the town of Broad Ripple, dated February 11, 1907, the traction company is required to keep

on sale within the limits of the town on the first five days of each month, commutation books of twenty tickets each, and for \$1.00 for the months of May to September, inclusive; for \$1.50, good for the months of October to April, inclusive, ten of these tickets to be good each way between Broad Ripple and Indianapolis, such tickets not to be transferable, and to be good only on city service and local interurban cars. The tickets sold twenty for \$1.00 must be used in the months mentioned. The ordinance provides that the traction company shall not be compelled to sell these commutation tickets to residents or citizens of Indianapolis.

5. Before accepting the ordinance of February 11, 1907, the traction company entered into an agreement with White City, which it has since observed, whereby the traction company sells during the months from May to September round trip tickets good from Indianapolis to Broad Ripple Park, the site of White City, and return, for 10 cents, provided that the return portion of the ticket is validated on the date of sale inside White City, and that such tickets shall not be good on local or limited interurban cars. To obtain validation the ticket holder must pay to White City an admission fee of 10 cents. As a consideration for such reduced fare, White City pays to the traction company 5 cents for each ticket so validated inside its gates and accepted by the traction company for a return trip to the city. White City also pays to the traction company 5 cents for all other admissions to the park, save a few, for which it pays only 2½ cents. It also pays to the traction company 1¼ cents for each commutation ticket sold by it from Broad Ripple, twenty tickets for \$1.00, good from May to September. In addition to these fares and regulations, it is provided that the traction company shall not sell tickets for city car service in Indianapolis and shall not issue or accept transfers in such city service as it performs.

All these ordinances and contracts were enacted and entered into prior to the act of March 9, 1907, which subjects interurban railroad companies to the control of this Commission.

It is contended by the traction company that it is not subject to the control of the Commission or amenable to the act mentioned in the performance of the service here in question and above briefly described. The company bases its contention upon the last provision of section 21 of the act, which reads as follows:

“The provisions of this act shall not apply to any street railway company in so far as it may engage in the carriage of passengers in its local town or city cars within the limits of any towns or cities in this State or their suburbs.”

From the reading of the act it is quite clear that this exception was only intended to apply in cases where the company is engaged in operating a system of street cars in cities or towns. The traction company does not engage in that business in Indianapolis. It is true it carries city passengers, but not in accordance with the rules which control the Terminal Company. This part of its traffic is a burden assumed whereby it obtained the privilege to operate its cars over the city lines. The major part of the fare is surrendered to the Terminal Company. It sells no tickets, and on that account charges a greater fare, and it does not accept or issue transfers. As we are impressed by the facts and manner of operation, the coming of the traction company to the city and its departure therefrom over the city lines is not for the purpose of doing business in the city, but rather to put its interurban inbound passengers down in the city and to pick its outbound interurban passengers up in the city. From the terminal at Indianapolis to the terminal at Broad Ripple is seven and one-half miles. To Broad Ripple Park, or White City, it is eight miles. In our judgment, it is quite clear that the traction company is subject to the act in its service to and from Broad Ripple. If the Terminal Company operated this line and it terminated at Broad Ripple, a different question would arise, but it would not then be free from doubt. As it is now, Broad Ripple is one of the stations on the traction Company's line and differs from the others only in distance from the city of Indianapolis, and, in our judgment, distance cannot alone be accepted as a guide to determine the application of this statute.

There is no well-founded objection to the round trip fare from the city to Broad Ripple Park. The purpose of this rate is to induce a flow of traffic from a city of over 200,000 inhabitants to a place of amusement and recreation. The purpose is a lawful one and the object is to be encouraged, as it furnishes an additional point for recreation and rest for the residents of congested districts in the city. These rates are open to all and are administered without discrimination. The revenue to the company is 5 cents less for the trip than for a round trip to Broad Ripple, a lesser distance, or from Broad Ripple to the city in the reverse direction, and also is less than the regular round trip fares to some intermediate points of lesser distance. The reasons which justify this rate do not apply to traffic moving in the opposite direction and the two classes of traffic cannot be compared for the purpose of holding them to be similar and therefore the rates to be discrimi-

natory. The only question concerning these rates to White City which seems to us to require attention is whether they do not violate section 14 of the act forbidding a charge of less for the long than is charged for the short haul. It appears that the regular round trip fare to Forty-second street and to Broad Ripple from Indianapolis is 20 cents. The Commission, however, has authority to allow such rates upon application and cause shown. It is also claimed that the traction company charges 10 cents from Forty-sixth and Forty-eighth streets to Broad Ripple and 10 cents to return, claiming the distance does not exceed fifteen blocks. If the traction company is subject to the law establishing a passenger rate of 2 cents per mile, then these charges violate that law. However, as the attorney-general has held that this law does not apply to this company, and as the question has not been discussed in this proceeding, no decision thereon is now given.

The only other rates in question here are the commutation tickets sold only to residents of Broad Ripple, twenty for \$1.00, good from May to September, and twenty for \$1.50, good from October to April, between Broad Ripple and Indianapolis and Indianapolis and Broad Ripple. These tickets are sold only for the first five days in each month in which they can be used. The rights to these tickets was secured to the citizens of the town of Broad Ripple when the traction company was granted the right to use its streets. The ordinance securing this privilege was enacted before the traction lines were subject to the control of this Commission. The ordinance is a contract between the traction company and the town for the benefit of its citizens. This contract is within the security guaranteed by the Federal Constitution, and it cannot be violated by the company or rendered inoperative by subsequent legislation enacted by the State. Until some court of competent jurisdiction decides that the act under which the Commission operates results in making inoperative the provision of this ordinance now in question, we shall hold that the same must be observed.

**A. R. 208.—STOPPING TRAINS AT CROSSING OF BIG FOUR  
RAILROAD AND INDIANA UNION TRACTION COM-  
PANY, EAST OF WINCHESTER.**

On July 1st the attention of the Commission was called informally to the fact that the Big Four Railroad was running fast trains over the crossing of the I. U. Traction Company east of Winchester, this being a very dangerous crossing, and to the further

fact that the traction company did not always stop its cars at the Big Four crossing at this place. The matter was taken up by letter with Mr. H. F. Houghton, general superintendent of the C., C. & St. L. R. R., and Mr. H. A. Nichol, general manager of the Indiana Union Traction Company. Mr. Nichol answered by letter, in which he advised the Commission that the motormen and conductors of the I. U. T. Company had instructions to always stop at these crossings. Mr. Houghton advised by telephone that orders would be issued requiring all trains to stop at this crossing, since which time trains have been stopping, and the matter is closed.

**A. R. 209.—GRAIN RATES ON T., ST. L. & W. R. R. FROM INDIANA POINTS TO TOLEDO, OHIO.**

July 17, 1907, J. M. Brafford, secretary of the Indiana Grain Dealers' Association, called the attention of the Commission to letter from W. L. Ross, G. F. A., T., St. L. & W. R. R., addressed to Morris & Thompson, stating that the railroad company had asked the Interstate Commerce Commission to grant permission to make a six-cent rate on grain from Indiana points to Toledo, effective in three days, to meet rates effective on other lines. At the request of Mr. Brafford, the Indiana Commission wired the Interstate Commerce Commission, saying that this was a proper request and that the shippers on that line were entitled to the rate asked for. July 25 we advised Mr. Brafford by 'phone that the rate had been authorized by the Interstate Commerce Commission, effective July 27th, thus saving about half the thirty days necessary to put in an interstate rate. July 25, 1907, the following letter was received:

Indianapolis, Ind.

Mr. Union B. Hunt, Chairman, City:

My Dear Sir—We are in receipt of the enclosed papers which we send you for your information. I am sure that the grain dealers of Indiana appreciate this particular case very much, and personally I am aware of the fact and shall extend to you my thanks for the great help the Railroad Commission has been to the grain dealers of Indiana in a great many ways.

Respectfully yours,

(Signed) J. M. BRAFFORD, Secretary.

Matter closed.



A. R. 210.—RATES ON MINE PROPS FROM POINTS ON  
THE C. I. & L. RAILWAY TO KOLKEN, INDIANA.

Geo. F. King, on July 5th, complained that the Monon Railroad had advanced rates on mine props and was discriminating in favor of the Shirley Hill Coal Company. Matter taken up and it was ascertained that there was no discrimination. With reference to reduction of a rate, O. C. Carter, G. F. A., Monon Railroad, advised the Commission that he would put in a new rate on mileage basis, effective August 1st. This letter mailed to petitioner, who responded that the matter was still unsatisfactory. Thereupon, this matter being transferred to our tariff department and becoming file No. 614 of that department, we asked the plaintiff for specific facts to sustain the charges made by him against the railroad company. No satisfactory response having been made by him, this matter was closed.

A. R. 211.—TRAIN SERVICE AT NAPPANEE.

On July 12th the Commission received from Coppez, Zook & Mutchler Company, of Nappanee, Indiana, a petition signed by a large number of people in that vicinity, alleging that the passenger train service on the Chicago division of the B. & O. Railroad, and especially at the town of Nappanee, had been rendered insufficient by the railroad company taking off two of its passenger trains. The matter was taken up by correspondence with Mr. B. W. Duer, general superintendent of the B. & O. R. R., and Mr. T. Fitzgerald, general manager of the said railroad. The Commission received a letter from Mr. Fitzgerald advising that the matter of train service at this place had been carefully considered by officers of the B. & O. R. R. Company, and that the conclusion had been reached that on account of lack of patronage the local service was so unremunerative as to compel its discontinuance, and declining to give additional service. Later Mr. B. W. Duer, general superintendent of the B. & O., and Mr. B. N. Austin, G. P. A. of said railroad, held a conference with the Commission at its rooms in the city of Indianapolis, and agreed to see what could be done to restore the former service at Nappanee. After considerable correspondence the Commission was finally advised by Superintendent Duer that he had thoroughly discussed the matter of train service on the Chicago division of the B. & O. in Indiana with the officials of that road, and that it had been decided to restore the schedule

which had been in effect prior to the passage of the two-cent fare law, this schedule to take effect in October. That instead of train No. 11 and No. 12 running between Walkerton and Chicago only, they would, after the new schedule became effective, run between Garrett and Chicago. The petitioners were advised of this contemplated change, and on October 5th replied that the people of Nappanee and vicinity would be greatly pleased to see the promised change made effective, but stating that this change alone would not afford sufficient relief, and asking to have the time of other trains changed. This the B. & O. officials have so far declined to do, and so the matter stands.

A. R. 212.—APPLICATION FOR SWITCH ON THE C., C., C.  
& ST. L. R. R., CLEVELAND DIVISION, TO  
MILL AT PENDLETON, INDIANA.

July 15, 1907, The Pendleton Milling Company complained that they needed switch connection with the C., C., C. & St. L. R. R., which they had been unable to obtain. This matter was referred to Inspector Shane and by him to H. O. Garman, consulting engineer, acting in this case as special inspector, who filed full report on July 18. A conference was arranged by the Commission with the complainant and the railroad authorities present, which took place on Friday, the 26th, at 10 a. m. At this conference conducted by Hunt, chairman, the railroad officials agreed to visit the site and arrange for putting in switch, and nothing further having been heard from complainant it is presumed that this was done, and this matter is therefore closed.

A. R. 213.—PASSENGER RATES.

Dr. D. C. Wyborn complained to the Commission that the Fort Wayne & Wabash Valley Traction Company was charging more than two cents per mile for the transportation of passengers over its line in this State and furnished the Commission the names of particular persons and the points between which they were carried at the excessive charge. After consideration of the matter of this complaint the Commission directed that the information so obtained be forwarded to the prosecuting attorney of Allen county and that he be requested to institute prosecutions under the law for the purpose of determining whether or not the act of the General Assembly of the State of Indiana approved February 25, 1907,

applied to interurban railroads. Accordingly, on July 30th, this information was forwarded to the Hon. Daniel B. Ninde, prosecuting attorney of the Allen Circuit Court, and he was requested to institute prosecutions as ordered by the Commission. On September 19, 1907, another letter was directed to this prosecuting attorney, requesting his consideration in this matter, and again on October 18, 1907, another communication was addressed to this official, calling his attention to prior communications and requesting his consideration in the premises. The Commission has received no response from this official concerning this demand of the Commission, except that on July 31st this official's assistant notified the Commission that the official was not in the city. The Commission regrets very much that it has been unable to bring this matter to an issue and have a subject of such importance settled, the attorney-general of the State having held in an opinion delivered by him that this law did not apply to interurban railroads. However, the Commission is powerless to proceed in matters of this character without the co-operation of local officials. Although it is but fair to state, in reference to this particular case, that the general manager of the Fort Wayne & Wabash Valley Traction Company advised the Commission that the rate complained of had been corrected so as to comply with the Commission's construction of the law.

**A. R. 214.—RATES AND OVERCHARGE ON SAND FROM  
NEW ALBANY TO MILLTOWN.**

On July 25, 1907, Flannigan Bros. complained that the rate on sand from New Albany to Milltown, on the Southern Railroad, was excessive and that they had been charged more than the published rate. The Commission communicated with Mr. R. A. Campbell, general freight agent, Southern Railroad Company, who advised that the rate on sand to Milltown from New Albany is 3 cents; that the agent had made an error in charging 3½ cents, that correction had been issued and agent at Milltown authorized to make refund. Parties advised by letter and this matter closed.

**A. R. 215.—MANUFACTURERS' COAL RATES TO NEW  
CASTLE, INDIANA.**

Heller Bros., on August 1st, complained that they use about 3,000 tons of coal per annum in their flower plant at New Castle. That they send their product, flowers, by express and wish to be

put on the same basis of coal rates as other manufacturing plants. This matter was immediately taken up with the railroads affected, with the result that on September 2, 1907, New York Central lines advised that complainant has no outgoing freight and is therefore not entitled to the manufacturers' rate on coal, and this matter closed.

A. R. 216.—DEFECTIVE HIGHWAY CROSSING.

On August 6th, Wilbur U. Maston and numerous other citizens of Hendricks County filed a complaint with the Commission against the Big Four Railroad, charging that it had taken out an overhead highway bridge crossing its line near Danville, so that traffic over such line had been entirely suspended. The Big Four Railroad being engaged in double tracking its line at that point, and it appearing to the Commission that it was not necessary to docket the proceeding as a formal complaint, the same was taken up informally with the general superintendent, and the Commission was advised that it was necessary to remove the structure so as to use the steam shovel in making new grade, and that as soon as the grade was completed a temporary structure would be thrown across the tracks for use by the public while a permanent overhead bridge was being constructed, and with this understanding the petition was permitted to lapse.

A. R. 217.—INTERCHANGE SWITCHING OF GRAIN AT WALKERTON, IND.

B. F. Holser & Company, on August 10, 1907, complained that the L. E. & W. R. R. declines to switch cars loaded with grain from the B. & O. and C., I. & L. Railroads, such privileges having formerly been granted, but being now withdrawn. This matter was promptly taken up by the Commission by letters to the railroad authorities, and on August 19, 1907, complainant was advised that the Monon road had filed its switching tariff with the Commission, providing for the interchange of traffic requested by complainant. August 21st, received letter of thanks from complainant, and matter closed.

A. R. 218.—PASSENGER TRAIN SERVICE ON B. & O. S. W.  
R. R. AT LEXINGTON, INDIANA.

August 14th, J. G. Chambers and 134 other citizens and patrons of the B. & O. S. W. R. R. at and near Lexington, Indiana, complained, asking for better train service at Lexington. August 15, 1907, this case transferred to regular docket No. 162, after which it was referred to Commissioner Wood, at the time of the hearing, suggested to petitioners and the railroad authorities to go into conference with reference to this matter. The conference accordingly took place, the train service was arranged to the satisfaction of complainants, and the matter closed.

A. R. 219.—PASSENGER SERVICE OF B. & O. R. R. FROM  
WAWASEE AND WALKERTON TO WHITING, IND.

August 14, 1907, A. J. Lauer complained to the Commission that train No. 17, from Wawasee, Indiana, to Whiting, consisted only of a combination baggage and smoking car and one day coach, and was entirely inadequate to accommodate passengers traveling between the Lake and Walkerton during the summer months. Complainant stated that the seats and aisles were so crowded that it was almost impossible to leave or enter the car, and that passengers were compelled to ride on the platform, and ladies were compelled to ride in the smoking car. This matter was promptly taken up with Mr. T. Fitzgerald, general manager of the B. & O. R. R., who was advised that in the opinion of the Commission the conditions set out in this letter do not conform with the legal obligations of the railroad company providing for proper accommodations of the traveling public. On August 30th Mr. Fitzgerald advised the Commission that the condition complained of was due to heavy travel, but had been remedied by putting on additional cars. Complainant was advised of this change for the better, and nothing further having been heard from him, this matter was closed.

A. R. 220.—INTERCHANGE SWITCHING AT HUNTINGTON,  
INDIANA.

August 10, 1907, Huntington Factory Fund Association complained that the two railways, the Chicago & Erie and the Wabash, at Huntington, declined to exchange switching for the different industries of the city. This matter referred to Commissioner Wood, taken up in extended correspondence between the

Commission and the railroad authorities. Terms were finally agreed on between the carriers, and the Commission, November 12, 1907, was advised that a reciprocal switching tariff had been put in by these companies, and this matter was closed.

A. R. 221.—CAR SHORTAGE AT RAYS CROSSING ON P., C., C. & ST. L. R. R.

Geo. Kennedy & Sons, Shelbyville, complained by telephone, August 19, 1907, that they were unable to get cars for movement of wheat to Madison and New Albany. That they had urgent need for eight cars at once. This matter was taken up immediately with superintendent of the P., C., C. & St. L. R. R. at Louisville, and on August 21st the superintendent advised that complainant had been supplied with three cars and would give them three each day until they were entirely relieved. Complainant advised the same day, and on August 23d letter from complainant stating they had received six cars since the matter was taken up by Commission, that they were greatly thankful for what had been done, and this matter was closed.

A. R. 222.—CONCRETE ARCH FOR HIGHWAY ON C., C., C. & ST. L. RY. TOO LOW AND TOO NARROW.

August 21st, David D. Mills, auditor, Hendricks County, called on Commissioner Wood and complained that the Big Four Railway Company was putting in a concrete arch to be used as a public highway on the county line road between Marion and Hendricks County, which was only 13 feet high and 16 feet wide, and that this arch would greatly interfere with the movement of road wagons loaded with hay and agricultural implements, and that this highway was very much used. This matter was at once taken up with Superintendent Houghton, and on September 16, 1907, complainant was advised that the present structure is only temporary and that the railroad intends, when the permanent structure is completed, to give a greater vertical clearance. Complainant was further advised that the Commission would be glad to take any further necessary action, but nothing further having been heard from complainant, it is presumed that this arch is now satisfactory to people who use it, and this matter is closed.

**A. R. 223.—DANGEROUS CROSSING ON STREETS IN  
PARKER CITY, INDIANA.**

The board of trustees of Parker City, Indiana, through J. T. Patrick, clerk, complained that the crossing of Main street and the Big Four Railroad is very dangerous. Mr. Patrick, on August 21st, was promptly advised that the act of the last General Assembly, chapter 90, page 123, conferred on the board of town trustees the power to require railroad corporations to protect street railway crossings, and that under this act his board could require the railroad company to put up gates or electric bells, if necessary, and that that was the best way to proceed under the law. Mr. Patrick was requested to advise if the Commission could be of any further service, and nothing further having been heard from him, we presume that this matter has been settled to the satisfaction of the town board and the same is therefore closed.

**A. R. 224.—CAR SHORTAGE, MT. VERNON, INDIANA.**

Keck Gonnerman Company complained of the L. & N. and E. & T. H. R. R. companies, that they are not furnishing sufficient cars to do their business. The matter taken up promptly with these companies, and the E. & T. H. advised that they are just in receipt of a letter from complainants that they have no complaint to make against the E. & T. H., and have had no difficulty in securing cars from this company. With reference to the L. & N., Superintendent Logsdon advises that on account of the shortage of cars they cannot furnish L. & N. cars for business that leaves their rails, needing all the cars they have for their own patronage. Complainants advised of these replies, and nothing further being heard from them, it is presumed that they were satisfied, and this matter is therefore closed.

**CARS FOR LIME SHIPMENT.**

**A. R. 225.—Ohio & Western Lime Company v. Chicago & Erie  
and Wabash Railroads.**

On August 23d the Ohio & Western Lime Company advised the Commission that the Chicago & Erie Railroad Company had refused to supply it with cars which could be loaded with the minimum, not to exceed 30,000 pounds, but insisted that cars must be taken that would load with a minimum of 36,000 pounds.

The lime company claimed that this was not practical on account of the perishable character of the shipment to be made.

On receipt of this letter the Commission addressed a communication to W. O. Johnson, general counsel of the Erie Railroad Company, and on August 24th received a letter from the lime company stating that they had been notified by the Erie Railroad Company that they would furnish all the cars required with fair promptness, and would accept cars at 30,000 pounds, until further notice.

On September 17th the Commission received a letter from Mr. Johnson, stating that he had been advised by the traffic manager of the Erie that, while official classification No. 30 provided for the minimum weight of 30,000 pounds, it did not affect shipments via the Erie, for the reason that that line was moving under the commodity weight, which provided for a weight of 36,000 pounds, and the matter was closed.

#### A. R. 226.—DELAYS IN TRANSPORTATION.

Indiana Bridge Company, August 21 and August 24th, complained of great delay in shipments to and from interstate points. One of these cars was shipped from Argentine, Arkansas, on the 24th day of July, and on the 19th day of August had not arrived there.

In reply advised by the Commission that over such shipments the Commission had no control. Through this correspondence the complainant announced that they intended to sue the carriers for damages on intrastate shipments under the provisions of the shippers' bill.

The Commission has not, however, been advised of the result of these suits, although such advice was requested in order that we might be informed of the operation of that bill throughout the State. However, the complainant has filed with the Commission a formal petition to have the average demurrage rules made a part of the car service rules of the State, which petition is now pending and set for hearing the 20th of December.

See formal case, No. 205.



## SWITCH CONNECTIONS.

A. R. No. 227.—**R. W. Vaughn & Company v. Wabash Railroad Company, and L. S. & M. S. Railroad Company.**

This case was transferred to regular docket file No. 181.

## SWITCHING CHARGES AT AUBURN JUNCTION.

A. R. No. 228.—**R. W. Vaughn v. Vandalia Railroad Company.**

September 16th, complaint was made to the Commission of excessive switching charges via the Vandalia Railroad at Auburn Junction.

Matter was called to the attention of Mr. G. W. Davis, general freight agent of the Vandalia, and Mr. C. H. Harkens, general western freight agent of the Baltimore & Ohio Railroad Company. The letter to Mr. Davis was answered by him, stating that he had no record of the switching charges being \$3.00 at Auburn Junction. The letter to Mr. Harkens was referred to C. T. Wright, district freight agent of the Baltimore & Ohio at Chicago, who advised the Commission that the complaint was in error so far as the B. & O. was concerned, but stating that his road was very much opposed to performing this service at a mere switching charge, and since this date no further correspondence has been had on this subject.

## SWITCHING SERVICES, NORTH VERNON.

A. R. No. 229.—**Co-operative Enterprise Glass Company v. B. & O. S. W. Railroad.**

September 10th, letter received from the Co-operative Enterprise Glass Company, complaining of infrequent switching service at its plant at North Vernon on the B. & O. S. W. Railway Company's track.

Much correspondence was had, both with the glass company and the railway, concerning this matter, and on October 16th the Commission was advised by the petitioners that the B. & O. S. W. railroad had agreed to furnish them with the best switching service possible under the circumstances. So the case closed.

A. R. 230.—**Shortage in Cars.**

Complaints from Pine Village, Attica, and other points on the Chicago & Eastern Illinois Railroad in this State, came to the Commission concerning shortage in cars for the movement of grain. These complaints were taken up in the first instance by letters, telegrams and personal interviews with the car accountant and general manager of this railroad. Instead of the service becoming better, it seemed to grow worse and the complainants continued to accumulate. The situation being so desperate, the Commission directed D. E. Matthews, one of its inspectors, to visit this line of railroad and make a personal inspection of the records and get accurate information concerning the situation. His report was filed on October 16, 1907, and reads as follows:

**Railroad Commission of Indiana :**

Gentlemen—Please note below my investigation of car service on C. & E. I. R. R., beginning at Yeddo, Ind., October 9, 1907 :

Point and Operator.	Capacity.	On Hand.	Car Record.	Remarks.
	Bushels.	Bushels.		
Thomas Glasscock Co., Yeddo, Ind.	20,000	Corn, 1,000 Oats, 19,000	Home 10 Aug. Foreign 11 Home 1 Sept. Foreign 5 Home 2 Oct. Foreign 0	Could get no cars after Sept 1st. Could use at once 6 or 8 cars.
Jones Brothers, Stone Bluff, Ind. Oct. 9th.	25,000	Oats, 4,000 Wheat, 1,200 Corn, 2,000	Home 18 Aug. Foreign 8 Home 3 Sept. Foreign 6 Home 2 Oct. Foreign 1	Received all cars needed in August. Received all cars needed in early part of Sept. Could use 6 cars at once, none on hand.
John T. Nixon, Rob Roy, Ind. Oct. 9th.	20,000	Oats, 4,500 Wheat, 2,500 Corn, 3,000	Home 10 Aug. Foreign 17 Home 6 Sept. Foreign 9 Home 0 Oct. Foreign 0	Received all cars needed in Aug. and Sept. Ordered 4 cars in Oct., received none.
John T. Nixon, Attica, Ind. Oct. 9th.	25,000	Oats, 22,000 Wheat, 1,500 Corn, None	Home 0 Aug. Foreign 0 Home 0 Sept. Foreign 0 Home 0 Oct. Foreign 0	No cars ordered in Aug. No cars ordered in Sept. Could get no cars in last 10 days.
James Martin Co., Attica, Ind. Oct. 9th.	25,000	Oats, None Wheat, None Corn, None		No complaint. Have not placed any orders with C. & E. I. R. R. This firm not doing much business.
Jones Brothers, Attica, Ind. Oct. 9th.	40,000	Oats, 1,500 Wheat, 1,500 Corn 600	Home 0 Aug. Foreign 5 Home 0 Sept. Foreign 2 Home 0 Oct. Foreign 0	All cars ordered in Aug. All cars ordered in Sept. All orders cancelled as we could not get cars.

Point and Operator.	Capacity.	On Hand.	Car Record.	Remarks.
	Bushels.	Bushels.		
John T. Nixon, Winthrop, Ind. Oct. 9th.	15,000	Oats, 6,000 Wheat, 1,000 Corn, 2,000	Home 9 Aug. Foreign 10 Home 6 Sept. Foreign 3 Home 0 Oct. Foreign 1	Not able to get cars after Sept. 15, 1907.
Chatterton Grain Co., Chatterton, Ind. Oct. 9th.	12,000	Oats, 6,000 Wheat, 1,000 Corn, 1,500	Home 6 Aug. Foreign 10 Home 3 Sept. Foreign 2 Home 0 Oct. Foreign 3	Could have used 8 or 10 more cars in Sept. Can use at least 14 cars at rate of 3 a day.
McConnell & Kennedy, Pine Village, Ind. Oct. 9th.	30,000	Oats, 18,000 Rye, 2,400 Corn, 7,500	Home 16 Aug. Foreign 18 Home 10 Sept. Foreign 7 Home 0 Oct. Foreign 2	Received all cars needed in Aug. Could not get cars after Sept. 24. Could use 20 cars at once.
Hawkins Brothers, Oxford, Ind. Oct. 15th.	60,000	Oats, 2,000 Wheat, None Corn, None	Home 2 Aug. Foreign 5 Home 0 Sept. Foreign 1 Home 0 Oct. Foreign 0	Could have used 12 more cars in Aug. Could have used 3 more cars Sept. After Sept. 4th we quit doing business with C. & E. I. R. R.
Swanington Grain Co., Swanington, Ind. Oct. 14th.	20,000	Oats, 15,000 Wheat, None Corn, None	Home 0 Aug. Foreign 3 Home 0 Sept. Foreign 0 Home 0 Oct. Foreign 0	Had all cars needed in Aug. Ordered cars, got none Sept. Could not get cars and quit ordering.
W. F. Stars Co., Barce, Ind. Oct. 14th.	100,000	Oats, 50,000 Wheat, None Corn, 15,000	Home 6 Aug. Foreign 14 Home 1 Sept. Foreign 0 Home 2 Oct. Foreign 2	Could have used 12 more cars in Aug. Could have used 30 more cars in Sept. Could use 40 cars at once.
F. G. Barnard, Lochiel, Ind. Oct. 14th.	125,000	Oats, 25,000 Wheat, None Corn, 25,000	Home 12 Aug. Foreign 4 Home 7 Sept. Foreign 3 Home 1 Oct. Foreign 6	Received all cars ordered in Aug. Could have used 10 more in Sept. Could use 10 cars in next 3 or 4 days.
Wadena Grain Co., Wadena, Ind. Oct. 14th.	35,000	Oats, 7,000 Wheat, None Corn, 24,000	Home 4 Aug. Foreign 2 Home 5 Sept. Foreign 5 Home 2 Oct. Foreign 2	Could have used 8 more in Aug. Could have used 10 more in Sept. Could use 10 cars at once, 5 per day.
Goodland Grain Co., Goodland, Ind. Oct. 14th.	100,000	Oats, None Wheat, None Corn, 32,000	Home 6 Aug. Foreign 4 Home 0 Sept. Foreign 2 Home 1 Oct. Foreign 1	Could have used 10 more cars in Aug. Could have used 7 more cars in Sept. Could use 5 or 6 cars at once.
H. Murry & Co., Goodland, Ind. Oct. 14th.	55,000	Oats, 4,000 Wheat, None Corn, None	Aug. Foreign 6 Sept. Nothing Oct. ordered.	Have no complaint to make, as we do business with P. C. C. & St. L. R. R.
Goodland Grain Co., Percy, Ind. Oct. 14th.	60,000	Oats, 15,000 Wheat, None Corn, 3,000	Home 4 Aug. Foreign 0 Home 1 Sept. Foreign 0 Home 1 Oct. Foreign 0	All cars needed in Aug. No orders placed in Sept. Could use 5 cars at once.

Point and Operator.	Capacity.	On Hand.	Car Record.	Remarks.
	Bushels.	Bushels.		
Lyons, Esson & Light Grain Co., Brook, Ind. Oct. 15th.	100,000	Oats, 35,000 Wheat, None Corn, None	Home 11 Aug. Foreign 16 Home 2 Sept. Foreign 3 Home 3 Oct. Foreign 3	All cars needed in Aug. All cars needed in Sept. Could use 20 cars, 2 per day.
Lyons, Esson & Light Grain Co., Foresman, Ind. Oct. 15th.	80,000	Oats, 30,000 Wheat, None Corn, 4,000	Home 7 Aug. Foreign 5 Home 1 Sept. Foreign 6 Home 1 Oct. Foreign 4	All cars needed in Aug. All cars needed in Sept. Could use 20 cars at rate of 2 per day.
Lyons, Esson & Light Grain Co., Beaver City, Ind. Oct. 15th.	30,000	Oats, 15,000 Wheat, None Corn, 5,000	Home 3 Aug. Foreign 0 Home 2 Sept. Foreign 3 Home 0 Oct. Foreign 5	All cars needed in Aug. All cars needed in Sept. Could use 15 cars at rate of 5 a day.
Lyons, Esson & Light Grain Co., Welschaar, Ind. Oct. 15th.	20,000	Oats, 10,000 Wheat, None Corn, 1,000	Home 0 Aug. Foreign 2 Home 2 Sept. Foreign 2 Home 2 Oct. Foreign 2	All cars needed in Aug. All cars needed in Sept. Could use 8 cars at rate of 1 a day.
J. D. Rich, Julian, Ind. Oct. 15th.	40,000	Oats, 10,000 Wheat, None Corn, None	Home 0 Aug. Foreign 1 Home 4 Sept. Foreign 4 Home 0 Oct. Foreign 2	All cars needed in Aug. Could have used 5 more in Sept. Could use 8 cars at rate 1 a day.
Rich Brothers Co., Morocco, Ind. Oct. 10th.	25,000	Oats, 8,000 Rye, 300 Corn, 700	Home 11 Aug. Foreign 11 Home 4 Sept. Foreign 5 Home 1 Oct. Foreign 2	All cars needed in Aug. All cars needed in Sept. Short 1 car on orders at present.
B. D. Archbald, Morocco, Ind. Oct. 10th.	35,000	Oats, 15,000 Rye, 600 Corn, 500	Home 3 Aug. Foreign 15 Home 4 Sept. Foreign 9 Home 3 Oct. Foreign 4	This firm ships to eastern points and have had all cars needed.

Car order books on C. & E. I. R. R. are not being properly kept up by agents, except in one case: the agent at Morocco has kept car order book in good shape. The Wadena Grain Company informed me that the agent at that point had received message from the superintendent of the C. & E. I. R. R. to pay no attention to full elevators or heated grain. I spoke to the agent about receiving such a message and he informed me that he had received it.

Respectfully submitted,

D. E. MATTHEWS,  
Inspector.

The facts set forth in this report were such that the Commission invited W. J. Jackson, general manager, and J. M. O'Day, car ac-

countant of this line, to a conference at the capitol. These officials very promptly appeared and produced for the information of the Commission a statement of the movement of traffic on their lines in this State and the State of Illinois. It appeared from this statement that the distribution of cars between the Chicago division, Illinois division and the Indiana division was not equitable, and that the Indiana division had not been receiving its proper proportion of the available box-car equipment. An order was issued by the company requiring the transfer daily through the junctions at Otter Creek and Momence of ten cars from the Illinois division to the Indiana division. These officials, in addition to this order, agreed to do everything in their power to relieve the situation. Some days after this conference there was a meeting of the grain dealers interested on this line at the rooms of the Commission, and information was furnished to the Commission that the service had materially improved and since which time the Commission has received no complaints concerning car service on this line.

#### SHORTAGE OF EQUIPMENT.

A. R. No. 231.—**Long & St. Clair v. C., I. & L. Railroad Company, at Cloverdale, Indiana.**

J. F. O'Brien, attorney for Long & St. Clair, of Cloverdale, Indiana, advised the Commission that this firm had not received half the shipping equipment needed for transportation of hay.

Matter was taken up with Mr. Taylor, the general manager of the Monon Railroad, who replied that Long & St. Clair had not been discriminated against, but that they had ordered twenty-three cars between August 1st and September 23d, and had received twenty-two of them.

Copy of this letter was forwarded to Mr. O'Brien, since which there has been no correspondence.

#### CARS ORDERED FOR INTERSTATE SHIPMENT.

A. R. No. 233.—**Brook Terra Cotta, Tile & Brick Company of Brook, Indiana, v. Chicago & Eastern Illinois Railroad Company.**

The Brook Terra Cotta, Tile & Brick Company, of Brook, Indiana, complained to the Commission on September 18th that the C. & E. I. Railroad Company refused to allow orders to be placed

in car record book to points outside of the State, claiming that the rate did not apply to points outside of the State, and the letter further stated that since the first of September they had received but twenty-five cars for outside points, which number was insufficient.

The Brook Terra Cotta, Tile & Brick Company were notified that the shippers' bill did not apply to interstate business and that the railroad company could not be required to permit the record book to be used for this purpose.

While the shipments complained of were all interstate the Commission took the matter up with J. M. O'Day, car accountant of the Chicago & Eastern Illinois Railroad Company, who notified the Commission that the brick people would get their full proportion of cars available to load from day to day consistent with the demands of other shippers. Matter closed.

#### RECONSIGNMENT OF CARS.

##### A. R. No. 234.—**J. M. Brafford et al. v. All Railroads.**

September 10th, Commission received complaint from J. M. Brafford, secretary of Indiana Grain Dealers' Association, and others, complaining that reconsignment charge of \$2.00 on carloads of grain passing through Indianapolis, or any other reconsignment point of Indiana, was unjust and burdensome upon the shippers, and asking that the Commission consider said complaint with the view of laying the matter before the Interstate Commerce Commission.

This case was taken up by telephone with the several parties interested, and on September 20th the Commission received a letter from the complainants advising that the reconsignment charge had been withdrawn, both as to Indianapolis and all other reconsignment points in Indiana, placing the grain business on the same basis as heretofore.

The matter having been satisfactorily adjusted the case is closed.

#### CAR SHORTAGE.

##### A. R. No. 235.—**J. W. Owens v. P., C., & St. L. Railroad Company.**

August 15th, J. W. Owens of Saratoga, Indiana, complained to the Commission that his elevator was full of grain and that he was unable to get cars for shipment, and asking that the matter be taken up with the railroad company.

Matter was taken up, and Mr. I. W. Greer, superintendent of the Logansport division, P., C., C. & St. L. Railroad Company, advised as follows:

Our records show that there were forty-six grain cars ordered at Saratoga during the month of August, and thirty-eight supplied. Mr. Owens, I believe, is the only grain shipper at that point. He loaded thirty-six cars, claiming that two of them were not fit for grain.

Copy of Mr. Greer's letter was sent to Mr. Owens and he was asked to affirm or deny its correctness. So far as our files show, nothing was received from him and we presume that the matter was adjusted in a satisfactory manner.

#### A. R. 236.—CAR SHORTAGE, EVANSVILLE, INDIANA.

Sunnyside flour mills complain that the car situation in Evansville is as bad, if not worse, than last year, and state that they will be compelled to shut down within the next day or two if they do not get relief.

This matter referred to Commissioner Wood, who took the same up by correspondence and personally, with the various railroads entering Evansville, with the result that on September 25th complainant advised that the car situation is improved and present conditions are satisfactory and that they are now getting sufficient empty cars to meet the present demand. There this matter was closed.

#### CAR SHORTAGE, DUGGER, INDIANA.

##### A. R. No. 237.—**Sullivan County Coal Company v. Indianapolis Southern and Illinois Central Railroads.**

Sullivan County Coal Company, at Dugger, Indiana, informed the Commission that it was unable to secure cars and in consequence of which they were compelled to close their mines a large portion of the time.

This case was taken up with Mr. O. S. Keith, superintendent of transportation of the Illinois Central Railroad Company, who advised that on the first of October the company would commence receiving 1,500 new coal cars, which would greatly improve the situation and that they would make an effort to see that the Sullivan County Coal Company had no further cause for complaint, since which time no further complaint has been received and the case is closed.

## CAR SHORTAGE AND BILL OF LADING NOTATIONS.

**A. R. No. 238.—Eberts Brothers, Nabb, Indiana, v. Baltimore & Ohio Southwestern Railroad Company.**

Eberts Brothers of Nabb, Indiana, complained to the Commission on September 23d that the agent of the B. & O. S. W. Railroad Company at Otisco endorsed bills of lading "O. R. L. & C.," which means "Owners' risk, load and account," and that the owner refuses to go to the car and count the boxes.

The claim was also made by these gentlemen that they had eight or ten cars of oats to ship to southern points, and that they cannot handle more than one car each day; that they ordered two cars per week and that the indications are that they will not get any cars for a week or ten days, and they fear they will be bunched on them so they will be unable to unload.

This case was taken up with the railroad officials and the Commission was advised that at Otisco, their agent being the telegraph operator, and could not leave train wire to count freight received, and that the population and business of the village was so small that they could not afford an additional employe for the purpose of looking after outside matters.

On September 28th the general manager of the B. & O. S. W. advised that his company would make a special effort to furnish Eberts Brothers with cars. This information, as well as the information concerning size of station at Otisco, was forwarded to Eberts Brothers, with the request that they give the Commission further information, which up to this time they have failed to do.

We, therefore, conclude that the matter has been adjusted in a manner satisfactory to them.

**A. R. 239.—SHORTAGE IN CARS.**

This is an application for relief on the subject of grain cars. The subject of this complaint was taken up and treated in the manner shown in No. 230 A. R., this report.

## EXCESSIVE PASSENGER CHARGE.

**A. R. No. 240.—W. C. Hall v. E. & T. H. Railway.**

October 3d Governor Hanly referred to the Commission a letter from W. C. Hall of No. 2142 North Meridian street, Indianapolis, Indiana, claiming that he had been charged 3 cents per mile on the E. & T. H. Railroad between Vincennes and Terre Haute.



Matter was taken up by correspondence with Mr. D. H. Hillman, general passenger agent, who informed the Commission that any charge in excess of 2 cents per mile that may have been made was an error and would be refunded. Case closed.

### IMPROPER ROUTING OF CARS.

#### A. R. No 241.—Indiana Bridge Company v. P., C., C. & St. L. Railroad Company. X

October 8th Guy S. McCabe of Richmond, division freight agent, Pennsylvania Line, called the Commission's attention to the shipment of steel from the Indian Bridge Company at Muncie to the Kokomo Steel and Wire Company at Kokomo. This car was routed by shippers by Pennsylvania lines and billed at the rate of 8 cents per hundred. The rate of  $7\frac{1}{2}$  cents per hundred was in effect on the Pennsylvania lines and Clover Leaf, but overlooked by both shipper and the agent of the railroad company.

The shipper claimed that the Pennsylvania Company should protect the rate in effect by the other route, which the Pennsylvania refuses to do without the authority of the Commission.

Mr. McCabe was advised that inasmuch as the company had two routes and two effective rates over which the traffic could move, one via Logansport at 8 cents per hundred, the other via Swayzee and the Clover Leaf, at  $7\frac{1}{2}$  cents per hundred, that it was the duty of the railroad company to route the freight by the shortest route and the most favorable rate, and that it was not unlawful, under the circumstances in this case, for the railroad to adjust the rate on the basis of the cheaper route at the time the traffic moved.

#### A. R. No. 242.—INQUIRY OF CARL WOOD, ATTORNEY FOR SOUTHERN INDIANA, CONCERNING ANTI-PASS LAW AS APPLIED TO WITNESSES.

Hon. C. E. Wood addressed a communication to the Commission on October 15th, asking if, under the provisions of the Railroad Commission laws of Indiana, section 2, clause "E," a railroad company might furnish transportation to witnesses in investigation or trial in court where said railroad company was interested.

Senator Wood was informed that, in the opinion of the Commission, a railroad company had a perfect right to issue free passes to witnesses, to be used in any investigation in which said

company was interested, and that this applied not only to court proceedings, but to proceedings before the Commission, and that it applied to all persons, whether they be employes of the railroad company or not:

#### MINIMUM WEIGHT FOR LOGS.

##### A. R. No. 243.—**National Handle Company v. C., I. & L. Railway Company.**

October 3d, National Handle Company advised the Commission that the Monon Railroad was requiring said company to pay on 20,000 pounds over the minimum carload weight for logs.

This matter was taken up with the railroad officials and after considerable correspondence was satisfactorily adjusted. A letter from the petitioners, under date of October 9th, advised that the Monon had corrected expense bill, reducing weight from 80,000 to 60,000 pounds, that the whole matter had been satisfactorily adjusted and the case closed.

##### A. R. No. 244.—**INSUFFICIENT CAR SERVICE ON INDIANA UNION TRACTION COMPANY.**

Commission received complaint from passenger on the Indiana Union Traction Company, Mr. R. A. Ogg, that that company was not furnishing sufficient number of cars, that he had been unable to secure a seat on that company's line, notwithstanding the fact that he traveled on a limited car.

In correspondence with the company's officials it turned out that this complaint referred to a day during the State Fair when 70,000 people were in attendance and all the lines entering Indianapolis were completely loaded down with travel. The traction company assured the Commission that this was not a frequent occurrence on this line and that their common practice was to furnish a sufficient number of cars to accommodate the public. That failures occurred only on occasions when they were unable to estimate the amount of travel, and that then they were sometimes unable to carry the people with the same comfort as at other times.

There seeming to be no reason for further action on the part of the Commission, the case was closed.

## DEMURRAGE.

**A. R. No. 245.—Elliott & Reid Company v. Indiana Car Service Association.**

In this case the Commission received an inquiry from Elliott & Reid Company of Richmond, Indiana, under the following state of facts:

They are manufacturers of woven wire fence in large quantities, and owing to the scarcity of cars they are often compelled to provide their own empties by unloading cars in which wire is shipped to them and using the same for shipments of the outgoing product. They ask whether or not they are privileged to hold such cars ninety-six hours before demurrage charges shall begin.

They were advised that while the demurrage rules did not provide for the case in question, the Commission thought that a proper interpretation of the rules would be that if they had a car of inbound material placed on their siding and got the consent of the company to load this car with outbound product and got such consent within the first forty-eight hours of free time, that they would be entitled to ninety-six hours of free time for loading and unloading the product.

They were advised, further, that it was the opinion of the Commission that they must have an understanding with the railroad company if the car loaded with inbound material was turned over to them for reloading, that they could not assume this on their own account.

**A. R. No. 246.—WEIGHING TRAFFIC.**

The Romona-Oolitic Stone Company complained to the Commission that the railroad companies' practice was to bill traffic at the marked capacity of the car, at points where there was no facilities for weighing, and that in many instances cars so billed, which were loaded above the minimum carload requirements, but less than the marked capacity of the car, would escape the scales, and this resulted in excessive charges.

After considering this question the views of the Commission thereon were expressed in the following letter:

INDIANAPOLIS, IND., Aug. 8, 1907.

Romona-Oolitic Stone Co., City:

Gentlemen—Referring to your communication of April 8th and June 10th on the subject of weighing traffic, I am directed by the commissioner having this matter in charge to say that on account of his ill health and

pressure of other duties he has been unable to come to a conclusion before this, and desires to apologize for the delay.

I am directed, further, to say that the understanding we have of this matter is that it is the practice of the company to bill carload shipments at the marked capacity of the car, regardless of the load, or at least when the load apparently exceeds the minimum carload weight, and that cars so loaded are usually not weighed in transit and freight is collected at the marked capacity of the car.

The law of this State provides that any railroad company which shall falsely bill or falsely weigh any freight, thereby collecting excess charges, is subject to heavy penalties, and that any consignor that falsely bills or falsely weighs any traffic tendered to the company is subject to heavy penalties; therefore, if a car is loaded over the minimum carload weight and less than the marked capacity of the car it is the duty of the company to ascertain the correct weight before imposing charge, otherwise it violates this law.

There would seem to be little, if any, question that the practice of any railroad company of billing freight at the marked capacity of the car, when such was not the case, without any effort on its part to ascertain the true weight, is a violation of the law, which may be enjoined, and against which practice this Commission certainly, under the law, would have authority to enter an order. The weight is certainly as important a thing in arriving at the revenue as the rate, and it does not occur to the writer that by any system of billing or practice of the company can it lawfully secure more revenue than the rate and exact weight will produce. In what particular manner the rights of the shipper and railroad may be protected in this matter I am not directed now to advise, but certainly there must be a remedy for any unlawful practice of this kind.

We note in the press that since the inquiry here has been pending that you have filed a proceeding with the I. C. C., raising the same question. It is a gratification to the Commission to know that you have done this, as the action of that body will be a guide to any course that this Commission might be called upon to pursue should a like proceeding be filed here.

Again regretting the delay incident to this matter, I am.

## DELIVERING CARS TO DIFFERENT DESTINATION FROM THAT IN ORDER BOOK.

### A. R. No. 247.—**Kinsey Brothers, Liverpool, Indiana, v. Pennsylvania Lines.**

Kinsey Brothers of Liverpool, Indiana, ordered a car for shipping grain, under the provisions of the shippers' bill. This car was furnished them on the 27th of July and loaded with corn. The original destination of the car had been Renova, Pennsylvania, but the shipper found that he could not ship it to this point and asked that it be sent to Washington, D. C. The train dispatcher

of the Pennsylvania gave permission to ship this car to Washington, D. C., but instructed the railroad agent at Liverpool to advise Kinsey Brothers that thereafter all cars must go as ordered.

Kinsey Brothers were advised that the Commission had no control over interstate shipments and that the law, requiring a book at this station where orders for cars were to be recorded, applied only to intrastate business and that the Commission had no jurisdiction over the class of business referred to.

#### A. R. No. 248.—ACCOUNTING BY INTERURBAN RAILROADS.

Paragraph "I" of section 3 of the act, approved March 9, 1907, requires interurban railroads to file annual reports with the Commission. The first report required to be filed under this law is for the year ending June 30, 1908. Therefore, it became necessary for these railroads to commence keeping these accounts on July 1, 1907, in such a manner as to be able to make the reports in accordance with the law.

At that time the Interstate Commerce Commission had not prescribed any system of accounting for electric railroads. After consideration by the Commission it determined, until the Interstate Commerce Commission shall prescribe a system of accounting for electric railroads, that such roads in this state should keep their accounts in accordance with the system of accounting promulgated by the Steam Railway Accountants' Association of America, and notice was given to the interurban lines accordingly. We are now advised that a system of accounting by electric railroads will be promulgated by the Interstate Commerce Commission about January 1, 1908. When such system is promulgated, the same will be considered by the Commission, and if approved by it, the Commission will enter an order requiring the interurban railroad companies to keep their accounts in accordance therewith, commencing July 1, 1908.

#### RATES ON GRAVEL.

##### A. R. No. 249.—**S. H. Dickinson v. C. & E. I. Railroad.**

S. H. Dickinson, county commissioner of Newton County, complained that the C. & E. I. Railroad Company was charging an exorbitant rate on gravel from Kentland to Percy Junction, a distance of three miles.

The matter was taken up with the general freight agent of the railroad, who promised to make an effort to have this rate adjusted, but at the time of making this report it has not been done and the case is still pending.

A. R. No. 250.—UNION STATION AT RUSHVILLE.

This was a petition, filed by numerous citizens of Rushville, requesting the Commission to use its good offices in an effort to procure the construction of a union passenger station in that city, for the use of all the railroads entering the city.

This petition was received by the Commission and has been entered upon its docket as a pending matter for the consideration of the Commission.

However, on account of the conditions of financial affairs just at this time, and the difficulty of securing money to take care of necessary and pressing improvements, the Commission concluded that for the time being no effort would be made to procure the construction of the joint facilities suggested by this petition. When conditions improve the Commission will invite the railroads interested to a conference on this important subject.

A. R. No. 251.—CLASSIFICATION OF TRAFFIC.

This inquiry involved the classification of the product of the Indianapolis Paste Company and the National Insulating and Manufacturing Company.

The Commission, exercising its authority under the law, made an investigation concerning this subject and its views are expressed in the following opinion:

McAdams, Commissioner.—This is an inquiry conducted by the Commission pursuant to the law which requires the Commission to keep itself informed and to enforce the laws of the State with reference to common carriers. The inquiry concerns the proper classification of the product of the Indianapolis Paste Company and the National Insulating and Manufacturing Company.

The law requires the classification of freight upon all railroads in this State to be uniform (par. (a), sec. 3, and sec. 10, act of March 9, 1907). The law requires all traffic to move upon the classification so made which must be filed with the Commission. If traffic is moved on a different rate or classification than that

filed with the Commission, the carrier moving the same is subject to heavy penalties (par. (b), sec. 10). If a shipper succeeds in having his traffic moved under a false classification he is liable to a fine of not less than \$100 or more than \$2,000, to which imprisonment in the county jail may be added, in the discretion of the court or jury, and a like penalty may be inflicted upon any agent or officer of a carrier for permitting traffic to move upon a false classification or unauthorized rate. (Sec. 15.) Therefore, it is of the greatest importance, not only to the carriers but to the shippers, that all articles offered for transportation shall be tendered by the shipper and handled by the carrier upon the proper classification in force at the time. The classification determines the rate on classified traffic which moves in this State under the Official Classification. Like articles, or articles taking the same classification, being shipped by different dealers on different classifications and consumed in competitive territory for like uses, presents a condition which the law is intended to prevent, and gives to the shipper or consumer obtaining the advantages an unlawful preference which the law will not sanction, and at the same time results in depriving the carrier of revenue to which it is justly entitled, and in a manner that the carrier cannot surely prevent or readily correct. If the classification is wrong, the remedy is to have it corrected. While it stands it is controlling in the same manner as though enacted by the legislature of the State and is absolutely binding on shippers and carriers alike. It cannot be set aside by evasion or by false billing, false labeling or by any other device.

The Indianapolis Paste Company manufactures a product composed of 99 per cent wheat, or corn flour, which is treated with chemicals and scented. The chemicals are not named. They are added to augment the adhesive quality of the flour when made into paste by adding water. This product is shipped in barrels and other packages. Some shipments are in the form of paste; that is, the water has been added. Others are in the dry form, needing only the addition of water to make the paste. This product is used in pipe covering and by wall paper hangers and decorators. When the product has the water added this company makes the shipping directions out as "flour paste." When the product is shipped in the dry form the company makes the shipping directions out as "flour." This product is not flour in the general acceptance of that term. It cannot be used for domestic purposes. The Official Classification for flour (No. 30, page 57, item 9) reads, "*Flour*, packed in boxes or barrels, L. C. L. 4th class, C. L. 5th class."

Under no circumstances could this product in the dry state be classed as flour within the meaning of this item. This is intended to cover only the ordinary flour of commerce, used for domestic consumption, and does not include flour which has been treated with chemicals and prepared for use in the arts and trades. The Official Classification of paste (No. 30, p. 123, item 22), reads: "*Paste*, flour in packages, L. C. L. 3d class, C. L. 5th class." In our judgment, the product of this company should move, both wet and dry, upon this classification and at the 3d class rate L. C. L. and 5th class rate C. L.

The product of the National Insulating and Manufacturing Company is composed of 95 per cent. of rye flour and 5 per cent. of various other ingredients and chemicals. This company has a patent upon this product, issued July 23, 1907. In the letters patent this product is styled cement.

This company ships its product under the designation of "Cement." It is used for the same purpose as the product of the Indianapolis Paste Company. In addition to these uses it adds asbestos and makes a paste or plaster for boilers. In some cases lamp black is added; in others it is omitted. The Official Classification of cement (No. 30, pp. 42 and 43, item 1), is as follows: "*Cement*, Building, L. C. L. 4th class; C. L. 6th class." This classification, under which this product has moved, covers the ordinary cement of commerce, used in construction work, and does not include articles of the character under consideration. The fact that it is styled cement in the letters patent does not change the character of the goods. It is no cement within the meaning of the Official Classification, but is "flour paste," and should be tendered and carried as such at the 3d class L. C. L., and 5th class C. L., the same as the product of the Indianapolis Paste Company.

The information furnished is not sufficient to enable the Commission to determine whether or not the asbestos product and the boiler covering manufactured by the National Insulating and Manufacturing Company are such as to entitle them to be carried under the Official Classification (No. 30, p. 42, items 30 and 33), as cement, asbestos, L. C. L. R. 26 (or 20 per cent. less than 3d class), and C. L. 5th class, and *Cement*, Boiler Covering, N. O. S., in bags, L. C. L. R. 26 and C. L. 5th class. We will hold this inquiry open for thirty days for a further showing in this regard, if either of the parties desire to be heard further.

We recommend to these parties that hereafter they shall desig-



nate their several products in shipping directions as "flour paste" and to the carriers that the same be moved as such, taking L. C. L. 3d and C. L. 5th class rates. The Commission is of the opinion that the questions involved in this classification were such that men of ordinary intelligence might honestly differ as to the proper application to be made, and so viewing the situation, we do not believe that prosecutions should be had for past offenses, but hereafter the law and this determination of the Commission must be strictly observed by both shipper and carrier.

**A. R. No. 252.—EXCESSIVE RATES FOR BRIDGE  
SERVICE.**

Mr. R. Hammersmith of New Albany complains that the L. & N., Illinois Central and Southern railroads decline to allow the same bridge transfer rates by wagon as their rate sheets allow by mail.

There has been some correspondence in this case, but the matter is still pending.

**A. R. No. 253.—SWITCHING COAL, ETC.**

Beeson & Seagraves of Losantville, Indiana, complain that a car of coal has been held on the C., C. & L. tracks at that place for two weeks, because the Big Four had refused to accept it for delivery at their place of business.

This matter was taken up with the Big Four officials, but no satisfactory adjustment of the matter has been reached and the case is still pending.

**A. R. No. 254.—IMPROVED PASSENGER SERVICE, STOCK-  
WELL, INDIANA.**

On November 20th a petition was filed, signed by nearly all the citizens of Stockwell, setting out that the local train which went east to Indianapolis in the afternoon and returned west to Lafayette at night, had been taken off, and that it was now impossible for citizens of that place to travel east and return the same day, or west, except to return at noon. That they could not express matter only on early morning train, that they could get no mail out from 1 p. m. until 8:35 the next morning, all of which was a great detriment to the business interests of the town and the convenience of the people.

The petition prayed that No. 16 going east and No. 19 going west should be stopped.

This matter was referred to Commissioner Wood, who, on December 4th, filed report as follows:

To the Railroad Commission of Indiana:

In this matter I beg leave to report that I have had two conferences with Mr. H. F. Houghton, general superintendent, and that he has agreed to arrange for fast trains to accommodate the people at Stockwell as follows:

No. 16 going east, which now stops at Stockwell only for the purpose of letting off passengers from Lafayette, will hereafter stop at Stockwell to receive and discharge passengers to and from all points.

No. 19 going west, which has heretofore made no stop at Stockwell, will hereafter stop at Stockwell to receive and discharge passengers to and from all points.

I report further that the local trains which heretofore accommodated the people of Stockwell, had become so poorly patronized on account of interurban competition that the earnings of these trains were reduced to 27 cents a mile. It seems, therefore, that it was not best for the company to continue to operate these trains.

I am inclined to the opinion that the arrangement made is the best that can be made, and ought to and will be satisfactory to the people of Stockwell.

Respectfully submitted,

W. J. WOOD,  
Commissioner.

#### SWITCHING AND DELIVERING OF COAL.

A. R. No. 255.—**Ira H. Martin v. C., C., C. & St. L. Railroad.**

Ira H. Martin of Danville, Indiana, complained of the failure of the C., C., C. & St. L. Railroad to make proper delivery of coal to his switch at Danville, Indiana.

The matter was taken up with the Big Four officials, who promised to have the matter adjusted. Mr. Martin filed a claim against the railroad company for penalty under the shippers' bill. As this case was not filed until about the first of December the matter has not been closed.

## A. R. No. 256.—RATES ON ROAD MATERIAL.

The board of commissioners of Marion County complained to the Commission that it had been charged \$1 per ton on two carloads of stone from its workhouse to Bridgeport.

This material was to be used in the improvement of a public highway.

Complaint was taken up with Mr. Thorne, commercial agent of the Vandalia Company, and on investigation it was learned that the proper rate to be applied on the shipment was 20 cents per ton and correction was made accordingly.

## A. R. No. 257.—FORM FOR EXPENSE BILLS.

W. J. Weaver of Scircleville complained that the Lake Erie & Western Railroad agent at that point, in making out expense bills, fails to show the character of the shipment as required by law.

The subject was taken up with Mr. Maxwell, assistant general freight agent of that company, and he was advised that the law requires all statements rendered for transportation charges, shall show character of shipments, weight, rate and charge, before demanding payment.

Mr. Maxwell advised that the agent at that point had been instructed to hereafter make expense bills in the manner required by the law.

## A. R. No. 258.—ADVANCE PAYMENTS.

The Anchor Stove and Range Company of New Albany, complained that the Southern Railway Company refused to deliver carloads of coal coming in on its line to the Monon, so that the same might be switched to the complainant's plant, unless the complainant would first pay the accrued charges.

Upon investigation it was manifest that the whole difficulty between the complainant and the Southern Railway arose out of the fact that the complainant declined to comply with the railway company's terms whereby it could be admitted to the credit list of that company. And on that account the company demanded prepayment of all charges before parting with the freight.

Upon these facts being learned, the complainant was advised that the company was within its rights, and further advised that it was unusual for advance charges on freight to follow the traffic to a connecting line which only performs a switching service.

## A. R. No. 259.—COAL RATES.

The Art Portland Cement Company at Kimmell, Indiana, on the Baltimore & Ohio Railroad, complained that it was unable to get a satisfactory rate on coal from Indiana mines to its plant at Kimmell, and that the B. & O. charged it 80 cents per ton on coal off the Vandalia Railroad at LaPaz to Kimmell, while it was charging only 25 cents on like coal from LaPaz to Syracuse, a few miles shorter haul, where the coal was consumed by industries in competition with the complainant.

The complaint was presented to the assistant coal and ore agent of the B. & O. Company and he reports that he is now endeavoring to procure satisfactory rates over other lines and asks the indulgence of the Commission until he ascertains what may be accomplished along that line.

## A. R. No. 260.—FREE TRANSPORTATION.

The Monon Railroad Company represented to the Commission that the Purdue Experimental Station at Lafayette, Indiana, desired that company to run a train over its line for the purpose of making demonstrations and furnishing advice to the public along its line concerning dairies and dairy products and the company desired to know whether or not, under the law, it would be permitted to furnish said train, without compensation.

After consideration by the Commission a letter was directed to the general counsel of the Monon Railroad, containing this statement:

As it appears to the member of the Commission having this subject in charge, you will not be performing the service of a common carrier in running this train over your rails.

As it appears to the commissioner, this is an enterprise which the company may conduct on its own account, with the view of developing industries and traffic along its line.

As we understand the law, a railroad company may perform any service along its line free of charge which looks to the development of its traffic and business and is not performed for any particular person or individual, but is performed or extended for the benefit of the public and the carrier interested. For instance, a carrier could properly engage in a propaganda with reference to its terminal facilities for handling grain, run a special over the road carrying parties interested therein for the education and information of dealers in grain, and as we understand the purpose of the proposed dairy train, it is likewise lawful.

### A. R. No. 261.—MINIMUM CAR LOAD WEIGHTS.

J. D. Rich complained to the Commission that the carrier serving his elevator furnished cars which, when loaded to their holding capacity, would not hold oats to the extent of the minimum carload weight required by the tariff of the company, and he inquired whether or not the company could charge freight for minimum weight on such a car.

Upon consideration he was advised by the Commission that in its judgment the carrier could not collect freight for more weight than the car furnished, when fully loaded, would carry of the particular product.

### A. R. No. 262.—FREE TRANSPORTATION.

The Muncie and Portland Traction Company represented to the Commission that disturbances of the public peace frequently occurred along its line, when it was necessary to send out the sheriff or chief of police for the purpose of looking after the disturbance, and the company inquired whether or not it might lawfully furnish free transportation to such officials.

After consideration the company was advised that according to paragraph "E" of section 14 of the amended act creating the Commission, the company could not furnish free transportation, excepting to "policemen or other peace officers while in uniform, within their respective towns or cities."

### A. R. No. 263.—IN THE MATTER OF THE INQUIRY PRO- FOUNDED BY THE RAILROAD COMPANIES AS TO WHETHER ENGINEERS OR MOTORMEN ARE RE- QUIRED TO STOP AT THE CROSSINGS OF INTER- URBAN OR STREET RAILROADS WITHIN CITIES AND TOWNS.

The following legal representatives of the carriers were present at the conference with the Railroad Commission of Indiana, held on the 26th day of July, at Indianapolis, Ind.:

John B. Cockrum, general attorney, L. E. & W. R. R. Co.;  
C. K. Tharp, solicitor, B. & O. S. W. R. R. Co.;  
W. O. Johnson, general counsel, Erie R. R. Co.;  
E. H. Seneff, general attorney, C. & E. I. R. R. Co.;

W. D. Haynie, general attorney, C., L. S. & E. R. R. Co., E. J. & E. R. R. Co. ;  
 L. J. Hackney, general counsel, C., C., C. & St. L. Ry. Co. ;  
 Iglehart & Taylor, general counsel, E. & T. H. R. R. Co. ;  
 H. R. Kurrie, solicitor, C., I. & L. Ry. Co. ;  
 H. L. Stone, general counsel, L. & N. R. R. Co. ;  
 S. O. Pickens, solicitor, P., C., C. & St. L. Ry. Co., Vandalia R. R. Co. ;  
 Clarence Brown, general counsel, T., St. L. & W. R. R. Co. ;  
 W. V. Stuart, general counsel, Wabash R. R. Co. ;  
 J. M. Barrett, counsel for Traction Companies ;  
 A. W. Brady, president Indiana Union Traction Co.

Wood, Commissioner—The enforcement by the Railroad Commission of the law requiring engineers and motormen to stop at unprotected crossings, has called sharply to the attention of all concerned the scope and purpose of section 668, p. 747, Acts 1905, which reads as follows:

Whoever, being the engineer of any locomotive or the motorman of any interurban electric car running upon any railroad track, upon or over which passengers are, or may be transported, runs such locomotive or interurban electric car across or upon the track of any other railroad or interurban railroad at a place where no system of interlocking works or fixtures is maintained as provided by the laws of this State, without first coming to a full stop before entering upon or crossing such other track, and without first ascertaining that there is no other train, locomotive or car in sight, approaching and about to pass over such other track; or whoever, being such engineer or motorman, runs such locomotive or interurban electric car upon or across such track when a locomotive or car is in sight, approaching and about to pass upon and over such crossing on such other track, shall, on conviction, be fined not less than one hundred dollars, nor more than one thousand dollars, and be imprisoned in the county jail not less than three months nor more than one year; and if any person shall be injured or killed by reason of such crossing, such engineer or motorman so violating the provision of this section shall be imprisoned in the state prison not less than two years nor more than fourteen years.

This matter was so frequently before us that it was deemed best to have a general conference of railroad managers and counsel with the Commission. This took place, and at the conference it was unanimously determined and agreed that hereafter stops should be made at all unprotected crossings outside of cities and towns, and the question whether criminal prosecutions of engineers and motormen for failure to stop at such crossings inside of cities and towns be instituted should be considered by the Commission.

It was shown that the traffic on Indiana railroads was of great and increasing volume, that it was often congested, and that there was pressing necessity that trains and cars, in order to haul this traffic and accommodate the public, should be moved as expeditiously as was compatible with safe operation.

It was shown that the street and interurban roads had rapidly increased their mileage, that in most, if not all of the larger towns and cities there were a great many intersections of these railways with the steam railroads and with each other, and, therefore, if stops had to be made at all such crossings, especially in the cities where these lines converge, the consequence would be that new schedules involving longer time and great delays would have to be made.

This Commission, while profoundly impressed with its duty to keep informed of the operation of the railroads with reference to the security of the public employes, does not desire to be impractical or unreasonable in enforcing the laws by extending their application beyond the purposes intended by the General Assembly. In view of the many railroad accidents which are constantly taking place, it is the imperative duty of the city and town councils, who have personal, everyday experience and information of the movements of trains in their communities, to supervise and control the operation of trains within their corporate limits. The Cities and Towns Act of 1905, page 254, has given this power, namely: "To secure the safety of citizens and other persons in the running of trains of cars in and through any such city, whether propelled by steam, electricity or other motive power," in no uncertain terms. The council may require such corporations to construct and maintain gates, and keep flagmen at railroad crossings, "and to provide protection against injury to persons or property from the operation of such railroads, trains or cars." It may require any railroad company running a car, engine or train of cars over any street at night time to maintain a street light at such crossings, to be burning at night during the passage of any train, engine or car, and for not less than thirty minutes prior thereto. It may require railroad, interurban or street car companies to change the location, grade and *crossing* of respective railroads. It has other powers referring to the specific matter of this inquiry, and while these are somewhat modified by the last sentence of the section we are quoting from, namely, "where the term railroad is used without limitation in this clause, it should not be construed to include interurban or street car roads"; yet, when it is con-

sidered that the cities and towns have generally reserved in the franchises granted to interurban companies full control of their operation in the cities with reference to safety, it can be affirmed, without qualification, that the General Assembly has committed to the local authorities the chief power and made it their primal duty to govern the operation of trains and cars at road crossings of all kinds within the towns and cities. The act of 1907, chapter 90, page 120, amends the municipal corporation act of 1905, by conferring additional powers on the councils, showing the continuing intention of the General Assembly to invest the local authorities with most adequate powers to prevent crossing accidents within corporate limits. The railroad company may be required to maintain street lights at street crossings; the giving of alarms, ringing of bells, and sounding of whistles, "whether locomotive or otherwise," may be regulated; railroads may be required to construct proper warning signs at street railroad crossings, and may even be required, when the authority is exercised in the manner prescribed in the statute, to install and maintain electric gongs and to construct and maintain gates, with men in charge, or keep flagmen, at any railroad street crossing, within such town limits. And it is most significant that an appeal to the Railroad Commission is permitted, but only in respect to the resolution or order of the town council as to electric gongs or alarms, or gates, or flagmen *at street crossings*. As to railroad crossings of each other, and of interurban and street railroads, and as to all the powers conferred on the town and city authorities with reference to the running, operation, conduct and management of trains and cars within the city limits, these matters are without the supervision of the Commission so far as these acts provide, and are left to the full control and jurisdiction of the town and city councils.

Confirmation of our impressions in this inquiry are contained in the criminal act under consideration. To violate this statute the engineer or motorman must run his train or car over a railroad crossing at a place where no interlocking plant is maintained, "as provided by the laws of the state." Now the Railroad Commission, upon the application of any railroad company, or on its own motion since the act of 1907, may order the installation and maintenance of interlockers at railroad crossings, but not on its own motion, inside the corporate limits of cities and towns without the consent and approval of the local authorities. Here, again, we are met with the proposition asserted in so many other places in the law, that the council and not the Commission shall control the



operation of trains and cars in the cities. And finally, to place the question beyond argument, we find in section 673, Acts 1905, the last of the crossing sections, a provision made by its terms a part of the section 678, the basis of this inquiry, said provision reading as follows: "But nothing contained in this section, or the preceding seven sections, shall be so construed as to interfere with any ordinance or by-law that has been or may be passed by any city or town regulating the management or running of engines or trains within said city or town."

In this inquiry we have noted also that generally in cities and towns trains are running in yard limits, as well as under the control of ordinances regulating speed.

In coming to the conclusion that the law has devolved upon the town and city councils the duty of protecting the public at the crossings, we do not mean to assert that we will fail to observe any fault in the operation or management of the companies that should disregard good railroading, and indicate recklessness even at the crossings in the cities. We would find the way under our general powers to punish flagrant and reckless violations. What we do determine here is that for the reasons given, and until the next meeting of the General Assembly, when this entire subject-matter may be made clearer by our recommendations and their enactment, if the General Assembly shall so will, we shall not hold ourselves bound to apply the criminal statute to the crossing by steam railroads of interurban railroads in the cities and towns and to report for prosecution every violation of its mandate, as we shall unquestionably do when crossings are run outside of the cities and towns.

The Commission will direct its secretary to send a copy of these conclusions to towns and cities in the state, as well as to the railroad companies interested in this inquiry. We desire in doing so to call the attention of the local authorities to the powers and duties devolved upon them, to the end that they may co-operate with this Commission by the proper and vigilant exercise of these powers, and co-operate with the managers and employes of the companies in the common and important object we all have in view, to prevent accidents and save the lives of citizens and employes.

#### A. R. 264.—DEPOTS ON TRACTION LINES.

Mr. J. W. Hodgson, of Evansville, inquired August 21, 1907, as to whether interurban lines must maintain depots and what efforts such companies must make to stop and take on passengers at

cross roads. August 30th advised by Commission that the laws of the State requiring carriers to maintain suitable depots applies to interurban lines, and that while there was no specific statute on the subject of stopping cars at cross roads in such cases the general legal duty to accommodate the public in the customary manner that such companies do business would control.

**A. R. 265.—CIRCULAR No. 16: BLOCK SYSTEMS.**

August 24th George H. Ross, V.-P., T., St. L. & W. R. R. Co., referring to our Circular No. 16, advising the railroad companies to put in block systems promptly, requested the opinion of the Commission "as to what kind of block system is best adapted to our road."

September 17th, after consideration by the Commission and consultation with the chief inspector, Mr. Ross was advised by letter as follows:

Your letter of August, 24th, with reference to equipping your railroad with an approved block system, in which you ask the opinion of the Commission as to what kind of system is best adapted to your road, was received, and I am directed to reply that in the opinion of the Commission the statute does not contemplate, nor will it be the best practice, nor accomplish the best results for the Commission, in the first place, to advise what kind of a block system should be installed on any railroad. We think the best plan will be for you to have your engineer, or some expert to be employed by your company, to go over your line with reference to all its physical conditions, density of traffic, and to everything else that should enter into a consideration of this kind, and for your company to adopt a plan and submit the same to the Commission, with a full report upon all the particulars mentioned in this letter, or any other facts that could help the Commission in arriving at a conclusion as to what would be the best in this behalf. We suggest also that the sooner this matter is taken up and put in the shape suggested by our circular and this letter the better it will be.

**A. R. 266.—SHORTAGE OF CARS FOR WATERMELON SHIPMENTS.**

September 16th J. M. Brown, secretary of the Watermelon Growers' Association, complained to Hon. J. Frank Hanly, Governor of Indiana, of the serious shortage of cars for watermelon shipments. Letter referred by Governor to the Railroad Commission; matter taken up by Commissioner Wood, who called D. H. Hillman, G. F. A., E. & T. H. R. R., by telephone and pre-

sented to him in this way the urgency of the situation, and also advised him by letter of the conditions stated to exist in Mr. Brown's letter. Hillman responded that his company was alive to the importance of supplying every available car for this service. That the warm weather in September had greatly increased the crop, and that his company was making every effort to get cars from every possible source to prevent the loss to the farmers of the crop and to his railroad company of the revenue that it would receive from carrying this business. Complainant advised of the action of the Commission and of the carrier, which seemed to be satisfactory and the matter closed.

**A. R. 267.—SHORTAGE OF COAL CARS, ILLINOIS  
CENTRAL R. R.**

August 29th Sullivan County Coal Company complained to the Commission of very great shortage of coal cars. Matter promptly taken up with O. S. Keith, superintendent of transportation, I. C. R. R., by wire and telegrams. Mr. Keith responded that the matter would be given immediate attention. Complainants called in person and railroad company again urged to relieve them if possible. Again railroad company agreed to do everything possible to be done, and no formal action having been taken by complainants this matter was closed.

**A. R. 268.—OVERCHARGE 3 CENTS A PASSENGER MILE.**

W. A. Marshall, September 23d, complained to the Commission that for balance of the distance on E. & T. H. R. R. not covered by his mileage ticket he had been charged 3 cents a mile under a rule of that company, the legal charge being 2 cents a mile. This matter was promptly taken up with D. H. Hillman, G. F. A., and on September 28th the complainant was advised that E. & T. H. had changed its rule by which agents were instructed to charge 3 cents for balance of trip not covered by mileage book, and that if complainant would forward his account for overcharge to the general offices at Evansville, Indiana, the amount so overcharged would be refunded, and the matter closed.

**A. R. 269.—WHETHER SIXTEEN-HOUR LAW APPLIES  
TO INTERURBAN ROADS.**

August 16th J. V. Lynn, agent, Amalgamated Association of Street and Electric Railway Employes of America, inquired of

the Commission whether or not the law of Indiana, which limits hours of service of employes, applied to interurban and electric railways.

August 21st the following letter was addressed to Mr. Lynn on this subject:

Your letter of August 16th was received.

The Railroad Commission has not considered whether the sixteen-hour law, chapter 131, Acts of 1907, page 215, includes interurban and electric railways. There is only one member of the Commission now in the city. I am directed to say that it is his opinion, from the reading of the act, that it does not extend to interurban or electric railways. This is a criminal act and would have to be strictly construed. Its reading: "superintendent, train dispatcher, yardmaster, foreman, or other railway official to permit or require any engineer, etc., engaged in the movement of passenger or freight trains or any switching service to remain on duty," etc., these words and expressions seem to refer to steam railroads. However, as stated above, there is no ruling of the Commission on this subject and the matter will be presented to the Commission when all are present and a ruling made, and if you desire it, given to you.

#### A. R. 270.—JOINT RATE ON ROAD MATERIAL.

September, 1907, during examination of rates on road material by Wood, commissioner, in Evansville, it developed that there was no joint rate on road material, but that local prohibitive rates were used between Milltown, on the Southern Indiana, and Armstrong, and Martin on the I. C. Railroad in Vanderburgh County, Indiana. During this examination the county commissioners requested the Commission to take this matter up and have a joint rate put in as soon as possible. Accordingly, conference was arranged in the office of the traffic manager of the I. C. Railroad in Chicago, on October 11th, with the result that the I. C. Railroad agreed to use its efforts to have these joint rates put in as soon as possible. October 31st, Commission advised that joint rate of 70 cents had been put in and this matter closed.

Note—See general inquiry on road material, formal case No. 135.

#### A. R. No. 271.—ACCIDENT REPORT, MONON RAILROAD.

In looking over reports of accidents made to the Commission it was discovered that the C., I. & L. Railway Company had failed to make such reports for July, August and September, 1907.

Whereupon the matter was taken up with the general superintendent of that road, who at first responded that on advice of their

counsel, such reports would not be made, unless there was loss of life or serious injury to passenger or employe. The importance to the public, carriers and employes of making these reports to the Commission was again urged by the Commission on this company.

And finally, November 9th, General Manager Taylor advised that he would hereafter make such reports in accordance with circulars of the Commission No. 7 and No. 8.

#### A. R. No. 272.—LATERAL CLEARANCES.

October 17, 1907, Reeves & Company of Columbus asked if Commission had made a ruling regarding the distance that buildings must be removed from railroad tracks in this State.

October 19th the Commission advised that a ruling had not been made, but called attention to section 12, page 118, chapter 189, Act of 1907. The Commission further observed, while this section seems to apply in terms to the railroad carriers, the purpose and intent of the legislature was to get all structures back to proper clearances.

October 23d complainants responded that they had read the law to which they had been referred, but that it was very indefinite, and asking again for the Commission to establish a distance for clearances which they would consider a reasonable one.

October 28th Commissioner Wood, for the Commission, advised them on this matter as follows:

Your letter of October 23rd was received and has been submitted to the Commission. We agree with you that the law on the subject of lateral clearances is very indefinite and that it would be impossible for you or for the Commission to make an absolute ruling on the exact distance which structures should be from the track under this statute. The Pennsylvania Railroad, in construing it, have thought that 6 feet 6 inches from the center of the track would be a sufficient clearance. The Big Four Railroad that 6 feet 9 inches would be a sufficient clearance. Each of these companies, however, are instructing patrons on their road to put their buildings 7 feet from the center of the track. We are informed that the Illinois Central Railroad Company has advised that the clearance shall be 8 feet from the center of the track.

We do not understand that the Railroad Commission, under the terms of the statute, has the authority to make a definite ruling on this subject with reference to all structures, nor do we understand that local conditions at all places would be exactly the same.

Under all the circumstances, the distance to which you should place your structure from the center of the track will depend upon what kind of a building you propose to put up and upon what sort of a track extends to it—whether the main track, a side or spur track, and what other

buildings are on the track. If it is entirely convenient for you to take any clearance you please, it would seem that 8 feet from the center of the track would be entirely safe. If you need room and desire to put the building closer than 8 feet from the center of the track we would be able to make no better suggestion than arises out of the practice of the companies mentioned above. Perhaps under these circumstances 7 feet from the center of the track would be sufficient. As stated above, it depends very much on the local conditions, and if you desire further advice from us in this matter and will send us a blue print of the buildings you propose to construct, the tracks, and what you desire to use them for, we will endeavor to be more definite in suggesting a proper clearance.

### RIGHTS OF SHIPPER WITH REFERENCE TO CARS. ADVERTISEMENT ON CARS.

#### A. R. No. 273.—**Anchor Stove and Range Company v. Monon Railroad.**

On August 28th Anchor Stove and Range Company, of New Albany, complained to the Commission that the Monon Railroad had given notice that hereafter it would charge \$1 for an advertisement tacked on cars and 50 cents for advertisement pasted on cars. These parties complained as follows:

When we charter a car it does look as if we ought to have the right to tack our card on same.

September 2d complainants, through Commission Wood, were advised as follows:

You seem to be mistaken with reference to the nature of the contract for transportation. You do not charter a car when you ship by carload. The car still remains the property of the railroad company. Your only right with reference to it is to have your goods carried from one point to another and delivered according to the usual course of business, to the consignee.

September 4th complainants further advised as follows:

Referring to your letter of the 28th, and to our answer of September 2d, I am directed to say that the Commission has made a further investigation of your complaint against the Monon Railroad Company for charging for advertisements placed on their cars. We find that the American Railway Association, an association of all the railroads in the United States, have had this matter under consideration and have adopted a general policy in regard thereto, which has been agreed to by all the companies. We find further that the Master Car Builders' Association has had this matter under consideration and have adopted a rule with reference thereto, which is binding on the railroad companies. The policy and the rule are the same and are as follows:

"That when any connecting railroad receives a car on which there is any advertising matter, said receiving company is authorized and required to remove the advertisement. If the advertisement is pasted on the car a charge of 50 cents against the delivering company is made; if the advertisement is tacked on a charge of \$1 against the delivering company is made."

This rule has been put into effect and is doubtless the rule under which you say the Monon Railroad Company is charging \$1 or 50 cents against shippers for putting advertisements on their cars.

You will note from the above that the Monon Railroad Company could not evade the charge alluded to in your letter, even if they wished to do so.

October 1st Kramer & Company, of Richmond, Indiana, made a similar complaint to the Commission. Copy of above letter was forwarded to them and this subject of investigation closed.

#### A. R. No. 274.—LIGHTING DEPOTS AND APPROACHES.

P. H. Houlahan, general superintendent T., St. L. & W. Railroad Company, addressed Commission with reference to its circular requiring lighting of depots and depot platforms and approaches and asked whether or not it was the purpose of the Commission to require the lighting of small stations where passenger trains did not stop at night.

This matter referred to Commissioner Wood, who, on November 13th, responded as follows:

We certainly do not wish to call on railroads to waste or expend money unnecessarily in the lighting of depots or in any other way. I am directed, therefore, to say that the circular order is not intended to apply to stations where passenger trains do not stop during the night to take on or discharge passengers. In other words, we do not desire to light up depot at night unless it is used for passenger service.

This case closed.

#### A. R. No. 275.—FORM OF ACCIDENT REPORT.

F. V. Whiting, chief claim agent, New York Central Lines, addressed the Commission suggesting that in place of the accident report form now used by the Commission, it should put in use a form adopted by the Interstate Commerce Commission.

November 13th Commission advised Mr. Whiting that the form used by Interstate Commerce Commission was only for the purpose of affording statistics, while the Indiana Commission had a

much broader purpose, namely, to gather such information concerning all the circumstances of the accident as to enable it to form an opinion as to how like accidents could be prevented.

Mr. Whiting was further advised that one of his suggestions would be adopted, but that the other, for the reason given, would not be adopted.

#### A. R. No. 276.—BUNCHING CARS.

Piel Brothers Starch Company, November 18th, requested advice as to whether there had been any ruling by the Commission as to the number of cars that must be unloaded daily in case cars are bunched on switch for unloading.

November 21st complainants were advised that in their case rule No. 5 of the Commission's Car Service Rules seemed to apply, and particular attention was called to the wording of said rule, namely, "beyond the ascertained ability of the shipper to unload." Copy of first annual report containing car service rules of the Commission mailed to Piel Brothers, and on November 21st complainants wrote thanking the Commission for information given and adding that Rule No. 5 covered their case exactly, and this matter closed.

#### A. R. No. 277.—INADEQUATE DEPOT AT CORYDON JUNCTION.

November 1, 1907, J. R. Crawford, chairman railroad commission, State T. P. A., complained to the Commission with reference to the station facilities at Corydon Junction, Indiana.

Matter taken up with C. P. Cooper, manager of the Southern Railway Company, who responded that this depot was the property of the New Albany-Corydon Railroad Company.

Mr. Cooper advised by the Commission that if his company used the station, that it was the duty of his company to furnish railroad facilities at Corydon while they used the station at that point. Mr. Crawford advised of this and matter still pending.

#### A. R. No. 278.—NUMBER OF DAILY TRAINS REQUIRED TO BE RUN.

George A. Halmhuber, November 21st, requested the Commission to advise if there was any law requiring railroad companies to give towns two passenger trains each way a day.



November 23d, Commission advised that there was no such law, but that it was the general duty of the carriers to give reasonable train facilities to the towns they served. Petitioner was asked if he had ever made application to the railroad company for better facilities and what response they had made. Nothing further having been heard from him it is presumed that satisfactory train service is given and matter is closed.

A. R. No. 279.—ROUGH HANDLING OF FREIGHT ON SOUTHERN RAILROAD.

November 10, 1907, James R. Crawford, chairman state railroad committee, State T. P. A., complained that freight was roughly handled by the Southern Railroad and greatly damaged by such rough handling.

Matter taken up promptly with C. P. Cooper, superintendent, who responded, November 20th, that freight was as well handled on his line as on other lines, and that they would continue to do their best to handle all business to the satisfaction of their patrons.

On November 27th this letter was enclosed to Mr. Crawford, with the request that he give specific instances of the rough handling of freight by Southern Railroad.

December 7th Mr. Crawford replies, insisting that the Southern Railroad was at fault in this matter. His letter presented to Mr. Cooper. Matter pending.

A. R. No. 280.—RUNNING RAILROAD TRAINS ON SUNDAY.

J. J. Waybright of Shakespeare, Indiana, complained to the Commission that railroad trains in this State were operated on Sunday, and requesting the Commission to advise whether or not the laws of the State did not prohibit them from being operated on the Sabbath day.

December 1st, 1907, he was advised that in so far as the Commission is advised, that there is no law in this State that prohibits the railroad companies from running their trains on Sunday.

A. R. No. 281.—PAYMENT OF SWITCHING CHARGES ON  
PUBLIC TEAM TRACK.

Fear-Campbell Company of Tipton, Indiana, October 14th, complained to the Commission that the Lake Erie & Western Railroad Company required them to pay switching charges on public team track in that city, that had been used for a public team track for fifty years.

Matter taken up with superintendent of Lake Erie & Western Railroad, by conference. Railroad company claimed that they could not allow complainant to use track further, without discriminating against other parties.

The railroad company also claimed the right to put its public team tracks at such location as it thought best and declined to allow complainants to unload cars on track in question, without paying switching charges.

Complainants advised that the Commission had no power to require the railroad company to make a public team track of the track in question, and the matter closed.

A. R. No. 282.—PETITION OF COMMERCIAL CLUB OF  
NEW ALBANY. SESSION OF COMMISSION AT THAT  
PLACE TO INVESTIGATE RAILROAD  
SITUATION.

October, 1907, New Albany Commercial Club, A. Heimberger, president, wrote requesting the Commission to hold a session of the Commission in that city in order to investigate on the ground the railroad situation, with reference to rates, demurrage and other matters of interest to the shippers.

Request acceded to, and on October 31st, at 8 p. m., Chairman Hunt of the Commission, accompanied by Commissioner Wood, went to New Albany and held a session of the Commission, and members of the club and shippers generally appeared and stated their grievances. Among other things it developed that New Albany shippers were charged 2 cents a hundred and other shippers 1 cent on the K. & I. bridge, and on this information the Commission has commenced an investigation with the view of presenting same to the Interstate Commerce Commission, if charge is sustained.

Shippers complained, also, of demurrage charges, of the rough handling of freight, of the condition of depots on the Southern Railroad, and many other important matters were brought up and discussed.

The Commission has taken up the matters so brought to its attention and is investigating and remedying the same as rapidly as possible, and on November 7th George B. Cardwell, secretary of Commercial Club, advised the chairman of the Commission that the club had expressed its formal thanks to the Commission for coming to New Albany to investigate on the ground the railroad situation. Mr. Cardwell adding:

The meeting was a gratifying success in every way. Good has already resulted, and any future action by your Commission on the points brought out will be of great value to our people.

#### No. 283.—CONSTRUCTION OF STOCK PENS AT NEW RICHMOND, INDIANA.

December 18th, 1907, Charles Kirkpatrick, president Corn Exchange Bank, complains to the Commission that there was no stock pens at New Richmond, Indiana, and that there was a great deal of stock to be shipped from that point, and that the stock pens were very much needed. This matter was referred to a member of the Commission, who, on December 23, took this matter up with Mr. P. H. Houlahan, general superintendent of the T., St. L. & W. R. R. On December 24th, Mr. Houlahan advised that the construction of stock pens at New Richmond had been authorized, and that negotiations are now under way for the purchase of the necessary land, and this matter was closed.

#### A. R. 284.—DELAY IN SHIPMENTS.

This was a complaint by the manufacturers and jobbers in New Albany, Indiana, concerning the slow movement of freight. The complaint was referred to the chairman, and it is now under investigation.

#### A. R. 285.—RATES ON STRAW.

The Columbia Enameling Company complained to the Commission that it was charged excessive and discriminating rates on straw used in packing its shipments, while other companies doing business in Terre Haute were allowed a milling in transit rate on straw used in the manufacture of their product. The complainant was advised that it would be necessary to file a formal petition before the subject of the complaint could be further investigated, since which time nothing has been heard from the complainant.

## A. R. 286.—MOVEMENT OF COAL.

Coal dealer of Winchester, Indiana, complained to the Commission that the E. & T. H. R. R. Company refused to deliver coal purchased by the dealer from mines on that line to the Big Four at Terre Haute. At the time this complaint was made an embargo existed on the line of the E. & T. H. R. R. against shippers of coal destined to points on the Big Four via Terre Haute. When this complaint was received the subject was at once taken up with the officials of these two lines and the information was given that the embargo would be raised during the next following few days after a conference, and since that time the embargo has been removed and traffic is moving in the usual and ordinary manner.

## A. R. 287.—TERMINAL CHARGES.

This is a complaint of the Hoosier Brick Company, of New Albany, Indiana, against the Southern Railroad on the subject of alleged excessive charges for switching service in handling complainant's coal and manufactured product about New Albany. The matter is under consideration and a conference between the complainant and the traffic officials of the Southern Railroad will be held at an early date.

### **APPENDIX III.**

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## **Reports of Railways.**

TABLE No. 1. REPORTS OF RAILROADS.  
MILEAGE OF ROADS OWNED AND OPERATED JUNE 30, 1907.

NAME OF ROAD.	Indiana Lines Owned.				Indiana Lines Controlled Through Stock.			Indiana Lines Leased and Operated Under Trackage or Other Agreement.	Total Mileage Main Line Operated in Indiana.	Total Main Line Operated.	New Main Line Built During Year, Including 2d, 3d and 4th Main.	New Yard Tracks Built During Year.
	Miles Main Line.	Miles Second, Third and Fourth Track.	Miles Branches and Spurs.	Miles Yard Track and Siding.	Miles Main Track.	Second Main Track.	Yard Tracks and Siding.					
Baltimore & Ohio Railroad Co.	169.22	15.39	71.17	128.67				387.26	387.26	1,268.22		3.80
Baltimore & Ohio Northwestern Railroad Co.	146.48	65.90		81.24				39		2.96	2.13	
Baltimore & Ohio Chicago Railroad Co.	2.96			50						2.85		68
Bedford Store Railroad Co.	2.13			56						284.67	7.66	
Bedford & Walser Railroad Co.	2.85									269.56		
Central Indiana Railroad Co.	117.84			21.82				9.50	127.04	957.10		
Chicago & Erie Railroad Co.	228.82	2.25		29.16					228.82			
Chicago & Eastern Illinois Railroad Co.	160.17	34.15	74.31	123.96				6.10	190.17			
Chicago & Indiana & Eastern Railroad Co.	174.48			39.16					234.89	43.05		
Chicago, Indiana & Southern Railroad Co.	143.05			10.44				6.00	140.44	940.07	16.84	66.32
Chicago, Indiana & Southern Railroad Co.	182.82	16.84	1.92	117.26				50.87	577.19	599.76	3.25	6.37
Chicago, Indianapolis & Louisville Railroad Co.	48.80	7.74	57.99	202.14	17.53		12.62	52.50	124.82	536.75	31.29	
Chicago, Lake Shore & Eastern Railroad Co.	8.23		64.04	30.36				4.71	19.80	104.82	.79	
Chicago Terminal Transfer Railroad Co.	10.53	.19	4.86	16.37					28.50			
Cincinnati, Bluffton & Chicago Railroad Co.	27.50		1.00	2.45								
Cincinnati, Findlay & Ft. Wayne Railroad Co.	17.51			1.06				174.51	174.51	1,037.80		10.39
Cincinnati, Hamilton & Dayton Railroad Co.	155.07			43.25				75.43	767.07	1,983.28	.02	.49
Cincinnati, Indianapolis & Western Railroad Co.	85.83			17.08					45.52	236.04		
Cincinnati, Richmond & Ft. Wayne Railroad Co.	507.89	62.87	71.61	310.58	112.34		14.71					
Cleveland, Cincinnati, Chicago & St. Louis Railway Co.	25.91	5.00	19.60	17.11								
Elgin, Joliet & Eastern Railway Co.	23.41			9.40								
Evansville & Indianapolis Railroad Co.	134.15			98.40				15.30	140.45	149.45		4.17
Evansville & Terre Haute Railroad Co.	131.53	1.65	51.45	115.07				35.45	134.45	154.45		
Grand Rapids & Indiana Railroad Co.	53.15			13.06				93.02	186.17	529.02		.64
Grand Trunk Western Railroad Co.	80.67	72.83		34.01	4.94		4.94		80.67	355.73		
Illinois Central Railroad Co.	31.27		14.55	17.75	4.94				50.82	4,377.80		
Indianapolis Union Railroad Co.	3.49	.93		9.23				2.33	122.76	179.26	89.10	17.49
Indianapolis Southern Railroad Co.	190.43			95.04					122.76	794.40	4.72	3.01
Lake Erie & Western Railroad Co.	316.89	4.72		180.92	198.72		32.54	53.31	457.21	794.40	9.77	20.03
Lake Shore & Michigan Southern Railway Co.	101.92	173.16	65.96	182.92	37.30		11.12		258.49	1,520.35		

Louisville & Nashville Railroad Co.	9.56			16.89	28.33	2.42	12.88		37.89	4,942.56		53
Louisville, New Albany & Corydon Railroad Co.	7.70			1.62					7.70	7.70		
Louisville, Henderson & St. Louis Railroad Co.					16.00		2.43		11.00			
Michigan Central Railroad Co.	43.00	42.50		40.93					79.23	1,745.94		
New York, Chicago & St. Louis Railroad Co.	151.02		3.25	45.66					194.27	554.62	.04	4.05
Peoria & Eastern Railway Co.	153.45	1.59		55.73					198.18	351.61	1.59	
Pere Marquette Railroad Co.					53.09		12.22		4.73			
Pennsylvania Co.					8.32		5.00		32.13			
Pittsburg, Cincinnati, Chicago & St. Louis Railway Co.	529.94	131.14	114.02	329.04					152.99	1,413.88	59.09	33.29
Pittsburg, Ft. Wayne & Chicago Railway Co.	152.99	164.23		102.39					2	741.97		3.06
Southern Railway Co.	118.28	2.50	93.09	75.47					211.43	7,554.71		
Southern Indiana Railway Co.	149.88	9.72	78.31	136.67					232.68	236.68		81
Toledo, St. Louis & Western Railway Co.	171.20			63.65					171.20	450.72		8.72
Vandalia Railroad Co.	449.80	7.73	43.31	256.54			8.30		503.74	528.19		5.00
Wabash Railroad Co.	311.20		14.80	140.80	25.70				357.40	2,514.30		

FOLLOWING ROADS HAVE NOT REPORTED. MILEAGE TAKEN FROM ASSESSMENT ROLL MARCH 1, 1907.

Anderson Belt.	2.15			1.22								
Bedford Belt.	4.19			10.20								
Chicago Junction.	3.75			4.13								
Chicago & South Bend.	90											
Chicago & Wabash Valley.	36.46			2.28								
Evansville, Suburban & Newburgh.	10.00											
East Chicago Belt.	5.22			5.47								
Elwood, Anderson & Laapel.	1.11			3.40								
Ft. Wayne & Jackson.	53.29			12.56								
Harrison Branch.	81			76								
Indiana Northern.	2.00											
Kentucky & Indiana.	35											
Lafayette Union.	6.50			2.50								
Louisville & Jeffersonville Bridge Co.	1.21			4.08								
Louisville Bridge Co.	08											
Michigan Air Line.	6.06			2.41								
Muncie Belt.	3.18			3.59								
New Jersey, Indiana & Illinois.	11.49			27								
St. Joseph, South Bend & Southern.	14.17			5.23								
St. Joseph Valley Railway Co.	8.41											
White River.	46			80								
Totals.	5,916.99	823.03	845.25	3,110.36	441.67	11.76	161.29	1,287.45	7,488.28	39,696.31	222.53	193.45
Branches and spurs.	845.25											
Proprietary companies.	441.67	11.76		161.29								
Total mileage.	7,203.91	834.79		3,271.65								

\* For ten months. † Chicago, St. Louis & New Orleans. ‡ Indianapolis Belt. § Includes C. I. E. for two months.

TABLE No. 1A. REPORTS OF RAILROADS.  
MILES INTERURBAN LINES IN INDIANA, IN OPERATION JANU-  
ARY 1, 1908.

(Does not include street railroad lines in towns and cities.)

	<i>Miles.</i>	<i>Total Miles.</i>
1. Angola Railway & Power Co.—		
Angola-James Lake .....		3.75
2. Cincinnati, Lawrenceburg & Aurora Elec. St. Ry. Co.—		
State Line—Aurora .....		9.13
3. Dayton & Western Traction Co.—		
State Line-Richmond .....		2.50
4. Evansville & Eastern Electric Railway—		
Newburg-Rockport .....		21.00
5. Evansville & Mt. Vernon Elec. Railroad—		
Evansville-Mt. Vernon .....		16.87
6. Evansville & Princeton Traction Co.—		
Evansville-Princeton .....		28.25
7. Evansville, Suburban & Newburg Railroad (A)—		
Evansville-Newburg .....	10.00	
Evansville Junction-Booneville .....	14.57	24.57
8. French Lick & West Baden Ry. Co.—		
French Lick-West Baden .....		1.09
9. Ft. Wayne & Wabash Valley Traction Co.—		
Ft. Wayne-Bluffton .....	24.79	
Ft. Wayne-Logansport .....	76.00	
Lafayette-Battle Ground .....	9.09	
Logansport-Lafayette .....	38.10	147.98
10. Ft. Wayne & Springfield Railroad—		
Ft. Wayne-Decatur .....		21.60
11. Hammond, Whiting & East Chicago Elec. Ry. Co.—		
Hammond-Whiting-East Chicago .....		25.53
12. Indiana Union Traction Co.—		
Muncie-Union City .....	33.20	
Anderson-Middletown .....	9.61	
Muncie-Bluffton .....	41.80	
Kokomo-Peru .....	19.19	
Indianapolis-Muncie .....	56.55	
Indianapolis-Logansport .....	79.74	
Anderson-Wabash .....	52.94	
Alexandria-Tipton .....	20.00	313.03
13. Indianapolis & Cincinnati Traction Co.—		
Indianapolis-Shelbyville .....	28.86	
Shelbyville-Greensburg .....	21.07	
Indianapolis-Rushville .....	41.30	
Rushville-Connersville .....	16.93	108.16
14. Indianapolis, Columbus & Southern Traction Co.—		
Indianapolis-Columbus .....	40.04	
Columbus-Seymour .....	22.35	62.39
15. Indianapolis, Crawfordsville & Western Traction Co.—		
Indianapolis-Crawfordsville .....		45.00
16. Indianapolis & Louisville Traction Co.—		
Seymour-Scottsburg-Sellersburg .....		40.92



	<i>Miles.</i>	<i>Total Miles.</i>
17. Kokomo, Marion & Western Traction Co.—		
Kokomo-Greentown-Marion .....		27.95
18. Lebanon & Thorntown Traction Co.—		
Lebanon-Thorntown .....		9.90
19. Lima & Toledo Traction Co.—		
Ft. Wayne-Monroeville .....		20.73
20. Louisville & Northern Ry. and Light Co.—		
Jeffersonville-Charlestown .....	13.68	
Watson-Sellersburg .....	4.15	17.83
21. Louisville & Southern Indiana Traction Co.—		
New Albany-Jeffersonville .....		6.00
22. Muncie & Portland Traction Co.—		
Muncie-Dunkirk-Portland .....		30.59
23. Marion, Bluffton & Eastern Traction Co.—		
Marion-Bluffton .....		31.57
24. Northern Indiana Railway Co.—		
South Bend-Goshen .....	27.00	
South Bend-Lakes .....	6.30	
La Porte-Michigan City .....	14.00	47.30
25. Southern Michigan Ry. Co.—		
South Bend-Indiana-Michigan Line .....		5.86
26. St. Joseph Valley Traction Co. (B)—		
La Grange-Middleburg .....		17.91
27. St. Joseph Valley Railway Co. (B)—		
La Grange-Angola .....		26.77
28. Terre Haute, Indianapolis & Eastern Trac. Co.—		
Indianapolis-Lebanon .....	28.29	
Lebanon-Frankfort-Lafayette .....	40.46	
Lebanon-Crawfordsville .....	23.50	
Indianapolis-Dublin .....	51.34	
Dunreith-New Castle .....	10.90	
Dublin-Richmond .....	17.32	
Cambridge City-Milton .....	2.07	
Indianapolis-Martinsville .....	30.64	
Indianapolis-Danville .....	20.10	
Indianapolis-Plainfield .....	14.23	
Plainfield-Harmony .....	39.31	
Terre Haute-Harmony .....	18.95	
Terre Haute-St. Marys-State Line .....	12.04	
Terre Haute-Sullivan .....	26.30	
Terre Haute-Clinton .....	15.95	351.40
29. Toledo & Chicago Interurban Ry. Co.—		
Ft. Wayne-Garrett-Auburn-Waterloo .....	25.00	
Garrett-Kendallville .....	12.00	37.00
30. Winona Interurban Ry. Co.—		
Warsaw-Goshen .....	25.14	
Warsaw-Winona Lake .....	2.00	
Peru-Chili .....	9.21	36.35
Total mileage .....		1,538.93

(A)—Operates by steam power also.

(B)—Operate by motor power.

TABLE No. 2. REPORTS OF RAILROADS.  
FINANCIAL STATEMENT—ASSETS.

[illegible]

Louisville, New Albany & Corydon Railroad Co.....	89,349	4,227	8,506	11,189,331	163,190	256,766	Includes \$145,000 unpaid on stock.
Michigan Central Railroad Co.....	* 35,213,257	.....	130,385	.....	17,392,144	73,801,734	
New York, Chicago & St. Louis Railroad Co.....	46,762,294	6,871,774	101,903	.....	3,456,180	57,090,290	Includes \$2,186,066 deficit. Operating company.
Peoria & Eastern Railroad Co.....	* 24,000,000	.....	71,022	190,501	237,140	24,427,642	
Pere Marquette Railroad Co.....	* 83,491,731	.....	44,842	9,021,698	7,169,021	98,782,452	
Pennsylvania Co.....	.....	8,355,598	.....	217,528,503	63,190,193	289,074,298	
Pittsburg, Cincinnati, Chicago & St. Louis Railway Co.....	96,963,873	13,321,386	101,488	5,571,980	22,273,942	138,071,133	
Pittsburg, Ft. Wayne & Chicago Railway Co.....	54,409,115	14,253,851	146,075	891,110	15,052,178	84,606,257	
Southern Railway Co.....	287,425,400	25,678,535	68,394	64,639,788	95,663,220	473,406,943	
South Chicago & Southern Railroad Co.....	847,927	36,866	.....	.....	53,548	901,476	
Southern Indiana Railway Co.....	12,918,463	3,580,309	73,202	5,905,388	1,130,459	23,534,631	
Toledo, St. Louis & Western Railway Co.....	* 37,903,185	.....	85,205	1,301,300	1,169,231	40,373,719	
Vandalia Railroad Co.....	23,074,865	5,374,206	43,646	1,301,300	4,491,590	32,965,382	
Wabash Railroad Co.....	* 169,684,852	.....	96,302	25,351,957	23,525,307	218,562,118	
Total.....	\$1,831,510,285	\$150,749,099	\$5,308,793	\$585,614,678	\$531,277,181	\$3,091,695,002	

\*Includes equipment.

TABLE NO. 3. REPORTS OF RAILROADS.  
FINANCIAL STATEMENT—LIABILITIES.

NAME OF ROAD.	Total Capital Stock.	Stock Per Mile.	Total Funded Debt.	Funded Debt Per Mile.	Other Adjusted Debits.	Current and Accrued Liabilities.	Balance Profit and Loss.	Total Liabilities.	Excess Stock and Debt Per Mile Over Cost of Road and Equip- ment Per Mile.	Excess of Cost of Road and Equip- ment Over Stock and Bonds Per Mile.
Baltimore & Ohio Southwestern Railway Co.	\$4,000,000	\$4,343	\$457,000,000	\$45,865		\$128,943	\$11,348.	\$49,138,282	\$134	\$38,178
Baltimore & Ohio & Chicago Railroad Co.	1,503,450	5,721	7,744,000	24,470		10,032,582		19,280,032		8,605
Bedford Stone Railway Co.	50,000	16,892				13,237	32,762	19,96,000		2,449
Bloomington Southern Railroad Co.	50,000	23,474		23,474		5,216		55,216		
Bedford & Walber Railroad Co.	49,600	17,400				1,311		50,911	1,474	
Central Indiana Railway Co.	120,000	1,020	1,500,000	12,761	\$10,000	1,092,628		2,722,628		3,543
Chicago, Cincinnati & Louisville Railroad Co.	4,206,000	16,074	6,600,000	25,224	413,740	1,386,378		12,616,116	6,133	2,255
Chicago & Erie Railroad Co.	100,000	401	22,300,000	89,354	538,619	236,192		23,234,811		
Chicago & Eastern Illinois Railroad Co.	22,618,100	27,676	46,233,463	96,373	1,747,974	3,869,478	1,428,250	75,897,267	18,031	
Chicago, Indiana & Southern Railroad Co.	1,000,000	23,228	600,000	13,937	4,666	3,386,094		1,940,760		3,537
Chicago, Lake Shore & Eastern Railroad Co.	20,000,000	61,761	18,600,000	57,437		5,321,950	373,383	44,485,333	3,297	
Chicago, Indianapolis & Louisville Railway Co.	15,500,000	30,464	15,000,000	29,482	199,069	1,356,184	5,128,703	37,183,956	1,208	
Chicago Terminal Transfer Railroad Co.	30,000,000	15,888	2,225,000	12,909	169,207	2,167,402	70,480	7,892,091	5,898	
Chicago Terminal Transfer Railroad Co.	308,960	308,960	15,589,000	160,348	885,920	2,407,378		48,852,300		18,135
Chicago, St. Louis & New Orleans Railroad Co.	10,000,000	7,778	58,388,000	26,585		13,576,326		81,964,326	2,178	27,072
Cincinnati, Findlay & Ft. Wayne Railroad Co.	1,250,000	13,678	1,150,000	12,383		10,388,084	810,035	2,400,050		
Cincinnati, Hamilton & Dayton Railway Co.	16,000,000	49,964	56,959,000	177,869	1,376,256	10,388,084		85,513,377	81,435	2,119
Cincinnati, Indianapolis & Western Railway Co.	7,124,753	19,744	7,998,000	22,164		1,583,708		15,894,025		
Cincinnati, Richmond & Ft. Wayne Railroad Co.	1,709,312	19,915	1,800,000	20,972	181,019			5,274,041		1,986
Cleveland, Cincinnati, Chicago & St. Louis Railway Co.	57,485,097	34,116	65,187,420	38,087	459,400	14,416,371	1,023,444	138,571,794	4,913	
Elgin, Joliet & Eastern Railway Co.	6,000,000	26,179	8,500,000	37,087	115,652	1,124,967	1,214,967	16,963,551		5,220
Evansville Belt.	2,000,000	22,472			3,684	85,884	64,775	4,254,314		34,673
Evansville & Indianapolis Railroad Co.	2,000,000	14,909	2,500,000	18,036	33,339	106,563		4,639,903	2,064	
Evansville & Terre Haute Railroad Co.	5,270,716	28,800	8,468,851	46,275	238,886	33,339	1,379,277	15,999,856	188	
Grand Rapids & Indiana Railway Co.	6,791,700	13,657	9,875,000	23,337	197,500	1,094,818	378,532	17,277,650	327	
Grand Trunk Western Railway Co.	6,000,000	18,132	20,372,000	61,563		1,939,784	32,142	27,364,326		
Illinois Central Railroad Co.	108,040,000	45,335	146,053,275	27,116	10,043,482	18,946,362	5,521,144	285,604,263	21,315	

Indiana Stone Railroad Co.	15,000	1,627	253,000	27,440	4,616	592,542	334,691	272,616	43	112,577
Indianapolis Union Railway Co.	920,330	989,603	1,000,000	1,075,269	7,005	307,002	295,572	12,090,292	1,932	1,003
Indianapolis Southern Railroad Co.	2,000,000	11,304	9,783,290	55,295	528,358	2,418,781	17,200,137	37,797,712	87,687	1,062
Lake Erie & Western Railroad Co.	23,680,000	33,347	10,875,000	15,315	1,356,000	13,164,690	20,827,512	232,120,828	12,221	89,597
Lake Shore & Michigan Southern Railway Co.	50,000,000	56,404	150,400,000	135,422	5,907,976	14,728,876	9,092,829	229,396,866	359	2,116
Louisville & Nashville Railroad Co.	60,000,000	14,992	127,932,500	31,966	9,250	17,963	1,001,588	256,766	2,862	1,901
Louisville, New Albany & Corydon Railroad Co.	145,000	13,162	83,000	7,545	562,270	20,143,534	306,656	73,801,734	359	89,597
Michigan Central Railroad Co.	18,738,000	69,352	25,265,000	23,419	793,466	2,662,205	8,607,465	57,090,260	359	1,901
New York, Chicago & St. Louis Railroad Co.	30,000,000	57,000	22,633,000	43,002	4,728,566	6,235,232	5,551,264	24,427,642	359	1,901
Poor's & Eastern Railway Co.	10,000,000	29,583	14,128,985	41,788	4,728,566	6,235,232	5,551,264	99,782,452	2,862	1,901
Penn Marquette Railroad Co.	28,000,000	15,039	60,818,552	32,665	12,405,911	16,755,955	8,607,465	289,074,298	359	1,901
Pennsylvania Co.	60,000,000	191,304,964	191,304,964	12,405,911	12,405,911	16,755,955	8,607,465	289,074,298	359	1,901
Pittsburg, Cincinnati, Chicago & St. Louis Railway Co.	52,790,691	48,580	62,983,715	57,960	4,426,287	12,319,174	5,551,264	138,071,133	5,052	236
Pittsburg, Ft. Wayne & Chicago Railway Co.	57,068,785	121,493	12,410,000	26,410	1,100,000	2,066,701	11,940,770	84,606,257	1,779	236
Southern Railway Co.	180,000,000	35,785	222,927,286	44,820	46,967,163	17,270,327	6,242,162	473,406,943	11,711	236
South Chicago & Southern Railroad Co.	842,300	36,630	11,351,495	49,745	148,466	5,361	53,614	23,534,631	25,649	2,116
Southern Indiana Railway Co.	11,000,000	48,205	17,450,000	38,716	158,060	887,608	147,061	23,534,631	25,649	2,116
Toledo, St. Louis & Western Railway Co.	20,000,000	44,374	14,479,370	22,214	786,719	1,517,698	1,599,785	40,373,719	985	2,116
Vandalia Railroad Co.	14,611,808	22,417	116,310,564	66,009	793,220	11,194,229	445,638	32,995,382	20,683	2,116
Wabash Railroad Co.	89,818,466	50,975	116,310,564	66,009	793,220	11,194,229	445,638	218,562,118	20,683	2,116
<b>Total</b>	<b>\$1,035,379,308</b>	<b>\$2,567,943</b>	<b>\$1,641,024,830</b>	<b>\$2,867,555</b>	<b>\$97,271,846</b>	<b>\$214,722,515</b>	<b>\$103,296,456</b>	<b>\$3,091,695,002</b>	<b>\$320,530</b>	<b>\$355,202</b>

TABLE No. 4. REPORTS OF RAILROADS.  
INCOME ACCOUNT—RECEIPTS ENTIRE LINE.

NAME OF ROAD.	Freight Receipts.	Passenger Receipts.	Other Income From Operation.	Rent of Track and Land.	Dividends on Stocks Owned.	Interest on Bonds and Deposits.	Other Income.	Total Income.	
Baltimore & Ohio Railroad Co. ....	\$15,008,985	\$4,835,295	\$139,697				\$3,912,110	\$199,839,977	Lease of line.
Baltimore & Ohio Northwestern Railroad Co. ....							3,009,125	3,912,110	Lease of line.
Baltimore & Ohio & Chicago Railroad Co. ....	43,740							43,740	
Bedford Stone Railway Co. ....									
Bloomington Southern Railroad Co. ....	3,764	23,761	212					3,746	
Bedford & Walner Railroad Co. ....	145,042	176,585	348					169,015	
Central Indiana Railway Co. ....	705,856	1,113,080	13,233				1,128	883,927	
Chicago & Cincinnati & Louisville Railroad Co. ....	3,383,034	1,995,861	624,498	\$7,522	\$79,200	\$16,942		4,605,489	
Chicago & Erie Railroad Co. ....	9,320,191	24,190	84		206,996	74,426		12,229,796	
Chicago & Eastern Illinois Railroad Co. ....	52,352	24,190	84				4,026	80,652	
Chicago, Indiana & Eastern Railroad Co. ....	2,401,974	228,352	288,721	5,000	82,293	11,436		2,935,483	
Chicago, Indiana & Southern Railroad Co. ....	4,199,672	1,771,407	99,547			93,295		6,246,214	
Chicago, Indianapolis & Louisville Railway Co. ....	4,271,959	48,043	631,736	100,255		1,793		4,904,754	
Chicago, Lake Shore & Eastern Railroad Co. ....			1,568,859				1,652,474	1,718,951	Lease of line.
Chicago Terminal Transfer Railroad Co. ....			180				8,130	50,471	Lease of line.
Chicago, St. Louis & New Orleans Railroad Co. ....	21,691	20,490					46,100	46,100	Lease of line.
Cincinnati, Bluffton & Chicago Railroad Co. ....							31,793	9,178,398	
Cincinnati, Findlay & Ft. Wayne Railroad Co. ....	6,498,675	2,267,191	327,963	2,475	29,680	20,620		5,000	
Cincinnati, Hamilton & Dayton Railroad Co. ....							75,986	73,986	Lease of line.
Cincinnati, Indianapolis & Western Railroad Co. ....									
Cincinnati, Richmond & Ft. Wayne Railroad Co. ....									
Cleveland, Cincinnati, Chicago & St. Louis Railway Co. ....	16,633,081	8,521,791	522,936		102,758	84,435		25,865,061	
Elgin, Joliet & Eastern Railroad Co. ....	2,357,365	1,885	352,423			16,774		2,728,447	
Evansville Belt. ....				1,838			22,336	24,165	Includes lease of line.
Evansville & Indianapolis Railroad Co. ....	256,700	149,083	33,573			14		439,360	
Evansville & Terre Haute Railroad Co. ....	1,256,962	530,200	354,904		8,086	16,057		2,169,209	
Grand Rapids & Indiana Railroad Co. ....	3,128,097	1,749,863	116,124	1,883				4,955,967	
Grand Trunk Western Railroad Co. ....	4,165,175	1,849,766	6,366	96,450	79,200			6,196,957	
Illinois Central Railroad Co. ....	38,033,270	13,664,867	5,603,428		422,027	2,482,691	294,144	60,505,428	
Indiana Central Railroad Co. ....							12,650	12,650	Lease of line.
Indiana Stone Railroad Co. ....		22,778	991,115					1,027,056	
Indianapolis Union Railway Co. ....	412,648	163,191	8,202			13,163	85	584,126	
Indianapolis Southern Railroad Co. ....	3,759,204	1,044,465	108,950		720	6,127		4,919,466	
Lake Erie & Western Railroad Co. ....	29,801,746	12,534,456	1,822,534	5,000	3,852,129	730,235		48,246,100	
Lake Shore & Michigan Southern Railway Co. ....			628,832	559,016	651,269	805,108		50,279,350	
Louisville & Nashville Railroad Co. ....	35,235,787	12,399,326							



TABLE No. 5. REPORTS OF RAILROADS.  
DISBURSEMENTS—INCOME ACCOUNT ENTIRE LINE.

NAME OF RAILROAD.	Maintenance of Way and Structure.	Maintenance of Equipment.	Conducting Transportation.	General Expenses.	Dividends.	
					Rate.	Sum.
Baltimore & Ohio Railroad Co.	\$2,100,411 94	\$3,225,175 98	\$7,172,700 36	\$400,174 83		
Baltimore & Ohio Southwestern Railroad Co.						
Baltimore & Ohio & Chicago Railroad Co.						
Bedford Stone Railway Co.	1,833 71	165 59	5,510 22	1,068 20		
Bloomington Southern Railroad Co.						
Bedford & Walner Railroad Co.						
Central Indiana Railway Co.	1,002 53		679 65	830 43		
Chicago & Erie Railroad Co.	44,316 19	27,539 61	111,425 83	12,979 15		
Chicago & Cincinnati & Louisville Railroad Co.	183,531 46	102,427 35	582,108 17	37,694 36		
Chicago & Eastern Illinois Railroad Co.	438,407 49	777,648 13	2,218,543 62	104,867 78		
Chicago, Indiana & Southern Railroad Co.	1,277,518 50	1,803,612 13	4,152,864 46	371,858 22	10 c 6 p	\$1,251,622
Chicago, Indiana & Southern Railroad Co.	13,132 94	9,881 79	1,62,012 44	6,827 21		
Chicago, Indianapolis & Louisville Railway Co.	385,997 20	424,257 40	1,163,543 90	116,039 76		
Chicago, Lake Shore & Eastern Railway Co.	557,805 36	839,466 40	2,210,225 55	140,376 95	3 c 4 p	515,000
Chicago Terminal Transfer Railroad Co.	246,041 73	648,103 92	2,015,669 11	86,191 42		1,600,000
Chicago, St. Louis & New Orleans Railroad Co.	176,724 09	196,881 18	581,573 94	103,068 36	4 c	400,000
Cincinnati, Burlington & Chicago Railroad Co.	4,141 48	2,031 87	13,964 77	3,012 34		50
Cincinnati, Findlay & Ft. Wayne Railroad Co.	1,078,613 34	1,571,755 55	4,194,761 53	240,145 82		8,614
Cincinnati, Hamilton & Dayton Railway Co.						
Cincinnati, Indianapolis & Western Railway Co.						
Cincinnati, Richmond & Ft. Wayne Railroad Co.	3,494,654 09	3,882,145 54	11,683,943 51	595,710 52	4c 5p	266,815
Cleveland, Cincinnati, Chicago & St. Louis Railway Co.	385,011 89	296,362 22	913,390 76	71,068 47	4 c	240,000
Elgin, Joliet & Eastern Railway Co.						
Evansville & Indianapolis Railroad Co.	97,627 61	44,112 74	157,776 77	11,777 07		
Evansville & Terre Haute Railroad Co.	183,056 61	358,096 20	541,150 15	69,750 46	4c 5p	293,661
Grand Rapids & Indiana Railway Co.	738 94	853,446 31	2,970,776 79	152,763 95	3 c	173,730
Grand Trunk Western Railway Co.	618,633 77	938,043 81	2,876,743 26	136,383 43		
Illinois Central Railroad Co.	6,624,362 26	9,596,068 84	20,994,440 71	1,213,829 70	7 c	6,652,800
Indiana Central Railroad Co.						
Indiana State Railway Co.	135,912 36	78,043 90	400,364 92	20,469 89		
Indianapolis Union Railway Co.	154,521 77	46,335 67	334,005 01	13,966 45		
Indianapolis Southern Railroad Co.						



Lake Erie & Western Railroad Co.	590,288 72	751,496 65	2,870,863 41	133,937 69	3	p	355,200
Lake Shore & Michigan Southern Railway Co.	5,701,966 62	6,101,508 25	16,964,608 11	770,144 37	12c 11p		5,904,665
Louisville & Nashville Railroad Co.	8,041,420 13	8,689,063 43	18,017,373 24	1,330,445 74	6	c	3,600,000
Louisville, New Albany & Corydon Railroad Co.							
Louisville, Henderson & St. Louis Railroad Co.							
Michigan Central Railroad Co.	4,560,177 29	4,597,490 07	13,008,750 67	561,331 92	5-1p 4-2p		1,124,280
New York, Chicago & St. Louis Railroad Co.	1,456,253 08	1,481,079 81	4,616,234 64	153,774 88			690,000
Peoria & Eastern Railroad Co.	1,643,894 53	459,463 63	1,252,550 41	66,557 61			
Pere Marquette Railroad Co.	1,639,447 22	2,003,074 26	6,884,404 44	365,425 16	6	c	3,600,000
Pennsylvania Company	6,793,960 57	8,185,238 16	18,370,094 30	823,663 80	3c 6p		2,240,148
Pittsburg, Cincinnati, Chicago & St. Louis Railway Co.	5,063,171 07	6,892,764 86	14,122,725 07	716,923 38			3,996,215
Pittsburg, Ft. Wayne & Chicago Railway Co.					2 1/4	p	1,500,000
Southern Railway Co.	7,660,168 08	9,576,041 88	23,930,681 78	1,890,737 89	4	c	33,700
South Chicago & Southern Railroad Co.							
Southern Indiana Railway Co.	204,563 99	214,865 36	413,947 54	70,710 59	2	p	200,000
Toledo, St. Louis & Western Railway Co.	537,856 79	494,317 61	1,657,649 85	127,440 40	4 1/4	c	647,009
Vandalia Railroad Co.	1,384,674 39	1,624,029 22	4,186,767 64	189,894 00			
Wabash Railroad Co.	2,747,667 46	3,915,261 39	3,710,796 72	688,894 18			
<b>Total</b>	<b>\$66,293,671 71</b>	<b>\$80,966,241 53</b>	<b>\$204,268,090 37</b>	<b>\$11,749,271 39</b>			<b>\$37,313,509</b>



Louisville, Henderson & St. Louis Railroad Co.	1,008,958	987,240	642,726	45,431	10,314
Michigan Central Railroad Co.	824,934	297,264	141,548	23,978	27,942,635
New York, Chicago & St. Louis Railroad Co.	566,705	97,624	3,436	251,129	10,257,619
Pennsylvania Co.	2,541,795	477,816	206,078	28,813	3,088,016
Pere Marquette Railroad Co.	7,611,365	1,487,704	1,822,336	432,222	14,564,884
Pittsburgh, Cincinnati, Chicago & St. Louis Railroad Co.	2,679,197	1,201,754	764,183	3,369,197	61,822,980
Pittsburgh, Ft. Wayne & Chicago Railroad Co.	413,087	1,630,734	34,098	905,290	37,344,607
South Chicago & Southern Railroad Co.	9,642,149	1,470,396	765,126	254,501	4,698,803
Southern Indiana Railroad Co.	415,682	83,142	29,018	253,986	58,676,257
Toledo, St. Louis & Western Railroad Co.	633,625	133,442	512	1,854	79,403
Vandalia Railroad Co.	600,002	246,637	400,000	129,837	1,600,362
Wabash Railroad Co.	4,511,896	883,550	86,594	460,692	4,175,465
Total	\$63,322,503	\$16,069,576	\$8,141,806	\$422,863,761	\$542,251,851
				d 3,615,241	

\* Includes \$627,637, account leased replacement and sinking fund.

† Includes \$72,000 equipment fund.

‡ Includes deficit on E. & L.

§ Includes \$192,946 improvement fund.

|| Includes \$115,274 loss on Nor. Ry.

TABLE No. 6. REPORTS OF RAILROADS.  
OPERATING STATISTICS—FREIGHT AND PASSENGER.

NAME OF RAILROAD.	Tons Carried.	Tons Carried One Mile.	Received Per Ton.	Freight Earnings Per Mile.	Passengers Carried.	Passengers Carried One Mile.	Received Per Passenger.	Gross Earnings Per Mile from Operation.	Operating Expenses Per Mile.	Income Per Mile from Operation.
Baltimore & Ohio Railroad Co. ....	16,427,608	2,508,466,175	.59	\$1,183.84	4,407,589	197,804,728	1.90	\$15,575.50	\$10,170.52	\$5,586.98
Bedford Stone Railway Co. ....	91,823	271,796		14,743.33				14,777.11	2,894.50	11,068.54
Central Indiana Railway Co. ....	314,275	17,302,141	.83	1,140.70	61,061	751,998	2.50	1,330.41	1,544.87	214.45
Chicago, Cincinnati, Louisville Railroad Co. ....	740,894	105,549,184	.66	2,702.98	235,686	8,894,253	1.57	3,380.56	3,735.78	355.22
Chicago & Erie Railroad Co. ....	3,644,403	754,625,053	.44	12,550.21	740,167	49,209,662	1.69	16,728.55	13,131.72	3,596.83
Chicago & Eastern Illinois Railroad Co. ....	11,943,138	1,940,963,492	.48	9,755.81	2,561,398	80,371,192	2.07	12,475.76	7,946.79	4,528.91
Chicago, Indiana & Eastern Railway Co. ....	148,037	4,596,259	1.13	1,459.50	64,527	869,179	2.27	2,136.23	2,560.76	424.53
Chicago, Indiana & Southern Railroad Co. ....	4,335,347	476,753,221	.50	7,111.59	375,464	9,680,259	2.04	8,583.67	6,175.61	2,408.06
Chicago, Indianapolis & Louisville Railway Co. ....	3,378,635	518,537,103	.81	7,026.01	1,749,692	70,686,044	2.02	10,121.76	6,715.80	3,405.96
Chicago, Lake Shore & Eastern Railway Co. ....	11,993,774			8,349.38	509,453	6,113,436	.74	15,425.51	5,796.94	3,787.14
Chicago Terminal Transfer Railroad Co. ....									10,094.33	5,331.19
Chicago, St. Louis & New Orleans Railroad Co. ....										
Cincinnati, Buffton & Chicago Railroad Co. ....	8,900,507	1,031,118,977	.63	788.79	3,491,402	111,156,333	1.66	1,540.43	841.83	689.59
Cincinnati, Hamilton & Dayton Railway Co. ....				6,261.97				745.32	6,827.20	1,935.40
Cleveland, Cincinnati, Chicago & St. Louis Railway Co. ....	16,776,674	2,773,661,311	.60	8,386.65	6,385,909	368,413,770	1.88	4,296.82	12,947.17	8,675.79
Elgin, Joliet & Eastern Railway Co. ....	6,694,093	431,764,703	.54	9,987.14	1,036	23,757	2.88	11,438.19	7,048.94	3,071.38
Evansville & Indianapolis Railroad Co. ....	2,455,412	26,490,540	.98	1,717.64	278,839	5,575,985	2.29	2,939.82	2,079.32	860.50
Evansville & Terre Haute Railroad Co. ....	2,619,604	127,450,826	.98	7,642.97	414,474	19,363,986	2.28	8,625.06	6,984.71	6,088.88
Grand Rapids & Indiana Railway Co. ....	4,457,918	457,717,059	.68	5,402.39	2,348,664	74,935,453	2.04	8,022.11	6,638.45	1,386.61
Grand Trunk Western Railway Co. ....	3,520,026	720,488,999	.57	12,405.58	1,765,248	133,367,917	1.21	17,933.90	13,555.49	4,378.41
Illinois Central Railroad Co. ....	26,922,868	6,592,220,619	.57	8,744.98	23,441,337	569,931,666	1.96	13,110.18	8,817.36	4,292.82
Indianapolis Union Railway Co. ....				805.95				98,150.39	62,259.82	36,890.57
Indianapolis Southern Railroad Co. ....	679,457	34,321,960	1.20	3,040.54	335,369	6,830,311	2.37	4,287.80	4,029.29	268.51
Lake Erie & Western Railroad Co. ....	3,992,044	558,563,664	.67	5,192.66	1,474,003	46,769,428	1.81	6,761.64	4,919.39	1,862.25
Lake Shore & Michigan Southern Railway Co. ....	33,902,746	5,656,080,216	.52	19,921.68	7,529,763	447,333,559	2.00	28,716.24	18,770.85	9,943.39

Louisville & Nashville Railroad Co.	26,093,798	4,395,620,480	.80	8,182 32	10,908,545	432,827,035	2.36	2,879 32	11,207 67	8,309 00	2,898 67
Louisville, New Albany & Corydon Railroad Co.	29,002	223,777	5.29	1,537 78	330,887	259,389	3.55	1,506 68	3,044 47	2,497 69	313 76
Louisville, Henderson & St. Louis Railroad Co.	97,090	1,990,990	.94	937 72	4,751,138	291,678,813	2.12	4,308 00	937 72	5,067 84	2,728 78
Michigan Central Railroad Co.	16,450,645	3,030,132,741	.94	11,181 60	4,777,694	91,093,234	1.57	2,941 63	15,750 75	13,021 97	2,694 38
New York, Chicago & St. Louis Railroad Co.	7,283,384	1,653,421,506	.92	15,498 90	923,300	30,422,650	2.03	2,551 96	18,458 10	13,896 62	4,601 48
Peoria & Eastern Railroad Co.	2,623,291	940,709,304	.92	6,070 76	4,573,279	197,610,823	2.00	1,679 03	8,690 29	6,718 91	1,871 88
Pere Marquette Railroad Co.	8,538,512	1,715,406,451	.99	4,281 70	12,593,035	357,967,621	1.94	6,414 92	6,115 64	4,611 28	1,804 86
Pennsylvania Co.	88,780,936	6,501,804,599	.60	27,715 63	12,593,035	357,967,621	1.94	6,414 92	27,715 63	23,946 56	10,494 54
Pittsburg, Cincinnati, Chicago & St. Louis Railroad Co.	42,959,461	4,166,871,899	.62	18,985 54	11,221,293	357,853,133	1.93	6,594 21	25,829 11	18,664 92	7,164 19
Southern Indiana Railway Co.	5,394,642	84,670,653	1.17	4,058 56	11,498,267	8,905,494	2.31	1,070 94	6,586 06	2,519 99	2,899 38
Southern Railway Co.	24,384,042	3,816,690,929	.97	4,051 48	12,842,914	698,171,060	2.45	2,448 59	9,508 03	6,705 96	3,003 67
Toledo, St. Louis & Western Railway Co.	3,400,263	698,824,927	.57	7,844 82	3,914,516	98,177,209	1.79	1,475 01	9,584 42	6,095 12	2,963 89
Vandalia Railroad Co.	9,256,511	698,775,655	.60	5,108 55	3,940,868	106,220,565	2.14	3,690 14	11,865 49	9,158 97	2,708 52
Wabash Railroad Co.	13,540,584	3,322,314,821	.55	7,486 77	5,250,493	369,294,716	1.86	3,417 30	10,966 77	8,118 14	2,888 63
Total	407,884,617	55,402,729,600			126,825,950	5,056,136,378					

\* Includes 102,331,978 water line.

TABLE No. 7. REPORTS OF RAILROADS.  
EMPLOYEES AND WAGES, AVERAGE DAILY COMPENSATION, INDIANA.

NAME OF RAILROAD.	General Officers.	Other Officers.	Office Clerks.	Station Agents.	Other Station Men.	Engineers.	Firemen.	Conductors.	Other Train Men.	Machinists.	Carpenters.	Other Shop Men.	Section Foremen.	Track Men.	Switch and Crossing Tenders and Watchmen.	Telegraph Operators.	All Other Employees.	Total Employees.	Average Daily Compensation.	Total Annual Wages.
Baltimore & Ohio Railroad Co.	6	22	37	74	105	212	224	151	345	157	178	1,058	83	448	34	103	314	3,545	\$2.07	\$2,258,642.64
Bedford Stone Railway Co.	1	1	1	1	1	1	1	1	1	1	1	1	1	3	6	1	1	22	2.08	4,517.25
Bedford & Walner Railroad Co.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	2.06	2,792.15
Central Indiana Railway Co.	3	5	9	15	7	7	7	7	12	10	15	24	16	51	1	9	1	199	1.90	126,113.37
Chicago, Cincinnati & Louisville Railroad Co.	1	7	20	26	59	39	48	26	55	42	42	76	31	183	12	22	420	1,109	2.08	502,090.88
Chicago & Erie Railroad Co.	5	37	48	248	253	76	79	59	139	55	80	366	32	288	21	72	1,610	2.00	984,141.56	
Chicago & Eastern Illinois Railroad Co.	1	1	1	52	14	20	20	15	130	19	12	39	41	65	47	14	156	645	2.03	286,072.88
Chicago, Indiana & Eastern Railway Co.	2	2	5	9	4	5	5	4	7	4	2	17	7	14	3	1	3	94	1.94	52,842.07
Chicago, Indiana & Southern Railroad Co.	3	28	28	17	46	46	46	25	50	24	54	164	37	1,094	18	31	493	2,158	2.00	1,311,752.42
Chicago, Indianapolis & Louisville Railway Co.	16	104	99	306	148	148	156	121	258	67	99	379	116	718	90	76	321	3,074	2.15	2,042,478.41
Chicago Lake Shore & Eastern Railway Co.	5	7	79	2	10	31	31	5	11	14	5	86	5	69	83	2	27	471	2.36	313,861.95
Chicago Terminal Transfer Railroad Co.	1	1	1	3	26	13	11	14	30	19	108	108	4	50	21	5	4	309	2.27	218,456.00
Cincinnati, Bluffton & Chicago Railroad Co.	1	1	1	4	2	2	2	2	2	2	1	2	4	12	1	1	35	2.05	20,609.10	
Cincinnati, Hamilton & Dayton Railway Co.	19	8	711	32	48	52	53	27	96	28	33	178	27	113	23	30	77	1,555	2.14	634,805.54
Cleveland, Cincinnati, Chicago & St. Louis Railway Co.	32	25	373	142	872	267	267	240	603	267	362	704	147	1,304	143	242	670	6,660	2.20	4,407,076.69
Elgin, Joliet & Eastern Railway Co.	5	6	98	8	12	8	8	8	16	14	14	14	8	78	17	7	293	1.87	91,198.47	
Evanville & Indianapolis Railroad Co.	16	7	90	27	14	16	19	15	31	17	17	17	19	121	2	8	62	464	1.06	133,920.86
Evanville & Terre Haute Railroad Co.	16	10	98	32	280	54	60	29	62	105	150	76	35	375	152	29	208	1,771	1.78	785,608.46

Grand Rapids & Indiana Railway Co.	12	10	104	108	356	121	122	114	244	48	96	260	102	380	97	108	361	2,733	2 24	2,019,392 40
Grand Trunk Western Railway Co.	1	1	12	16	29	2	2	40	87	10	4	19	60	32	23	38	366	2 14	285,781 95	
Illinois Central Railroad Co.	4	1	5	9	27	10	10	31	10	6	18	10	46	6	4	78	281	2 11	158,957 07	
Indianapolis Union Railway Co.	2	11	17	12	97	28	32	27	69	9	17	47	16	140	74	19	2	608	1 95	387,940 84
Indianapolis Southern Railroad Co.	3	12	129	85	169	80	74	54	147	25	37	16	53	362	10	83	1,921	1 92	346,867 60	
Lake Erie & Western Railroad Co.	2	2	29	42	271	224	207	114	270	188	102	501	86	1,701	117	78	353	2 15	1,269,812 60	
Lake Shore & Michigan Southern Railway Co.	2	2	29	42	271	224	207	114	270	188	102	501	86	1,701	117	78	353	2 15	1,269,812 60	
Louisville & Nashville Railroad Co.	2	2	29	42	271	224	207	114	270	188	102	501	86	1,701	117	78	353	2 15	1,269,812 60	
Louisville, New Albany & Corydon Railroad Co.	3	2	13	2	71	50	53	30	76	15	4	27	20	71	55	11	123	46	10,135 15	
Michigan Central Railroad Co.	1	1	12	16	29	2	2	40	87	10	4	19	60	32	23	38	366	2 14	285,781 95	
New York, Chicago & St. Louis Railroad Co.	32	4	40	28	134	33	33	27	68	3	37	16	28	301	44	42	155	785	2 25	552,543 60
Pennsylvania Railroad Co.	19	774	7	26	16	16	16	10	19	9	62	5	9	166,771	20	1	9	20,011	2 16	166,771 20
Pittsburgh, Cincinnati, Chicago & St. Louis Railway Co.	1	12	209	30	333	117	124	112	207	198	234	1,450	68	824	69	138	205	4,331	2 33	2,874,971 59
Rock Island Railway Co.	10	32	497	150	589	304	308	267	589	121	123	1,394	184	1,445	229	330	771	7,343	2 31	5,012,567 79
Southern Indiana Railway Co.	4	3	78	47	27	65	65	53	121	50	152	338	51	325	8	30	94	1,429	5	9,100 00
Toledo, St. Louis & Western Railway Co.	5	8	78	46	47	21	21	21	44	17	7	192	52	216	37	17	77	906	2 01	597,449 54
Vandalia Railroad Co.	3	5	21	35	75	37	37	24	52	41	79	74	35	178	57	28	146	927	2 02	636,189 87
Wabash Railroad Co.	9	25	54	105	320	155	183	117	267	160	330	866	104	687	246	118	418	4,138	2 17	2,810,576 40
Wabash Railroad Co.	6	17	77	58	219	103	102	61	216	206	58	237	54	276	70	58	190	2,008	2 37	1,467,740 16
Total	234	247	3,835	1,450	4,942	2,414	2,464	1,885	4,457	2,017	2,475	9,672	1,593	12,578	1,927	1,798	6,939	60,922	.....	\$38,568,263 81

TABLE No. 8. REPORTS OF RAILROADS.  
ACCIDENTS IN INDIANA.

CAUSE.	Trainmen.		Other Employees.		Passengers.		Postal Clerks, Express and Baggage and Pullman Employees.		Trespassers.		Not Trespassers.		Total.	
	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.
Coupling or uncoupling.....	9	149	4	4	53	289	10	5	4	5	1	3	9	153
Collisions.....	25	153	4	25	1	1	1	1	4	5	1	3	87	495
Parting of trains.....	2	24	1	1	2	113	5	5	1	1	1	1	2	27
Derailments.....	10	83	11	11	2	113	5	5	1	1	1	1	12	213
Locomotives or cars breaking down.....	1	8	1	1	1	1	1	1	1	1	1	1	1	8
Falling from trains, locomotives or cars.....	14	251	3	29	1	27	1	18	9	18	4	1	31	326
Jumping on or off locomotives or cars.....	3	218	2	23	1	57	1	41	14	41	4	4	34	344
Struck by trains, locomotives or cars.....	14	30	31	50	1	1	1	1	1	1	1	1	45	80
Struck by overhead obstructions.....	1	25	2	1	1	1	1	1	1	1	1	1	1	28
Struck at highway crossings.....	1	25	2	1	1	1	1	1	1	1	1	1	1	28
Struck at stations.....	6	6	1	1	1	2	1	1	7	8	40	127	47	135
Struck at other points on track.....	1	1	1	1	1	2	1	1	20	33	8	19	28	60
Handling traffic.....	1	1	1	1	1	1	1	1	99	62	2	7	107	69
Handling tools and machinery.....	1	1	1	1	1	1	1	1	1	1	1	1	1	152
Handling supplies.....	1	1	1	1	1	1	1	1	1	1	1	1	1	538
Getting on or off locomotives or cars at rest.....	5	628	7	948	2	2	1	4	1	4	1	1	7	54
All other causes.....	5	628	7	948	2	2	1	4	1	4	1	1	13	404
Total.....	84	1,575	57	2,240	58	491	5	17	154	171	55	183	413	4,057



TABLE No. 9. REPORTS OF RAILROADS.  
COMPARISON WITH PRECEDING REPORT, 1906.

ITEM—MILEAGE	1906.	1907.	Increase.	Decrease.
	Miles.	Miles	Miles.	Miles.
Miles main track.....	7,110.00	7,203.91	93.91	
Miles second, third and fourth track.....	734.00	834.79	100.79	
Miles yard track and siding.....	3,099.00	3,271.65	172.65	
Miles Indiana lines leased or otherwise operated.....	1,286.03	1,287.45	1.42	
Total miles main line operated in Indiana.....	7,225.91	7,488.28	262.37	
Total miles main line operated.....	39,245.13	39,696.31	451.18	

FINANCIAL.	1906.	1907.	Increase.	Decrease.
Cost of road.....	\$1,683,516,601	\$1,831,510,285	\$147,993,684	
Cost of equipment.....	128,742,518	150,749,099	22,006,581	
Stocks and bonds owned.....	437,870,015	585,614,678	147,744,663	
All other assets.....	602,596,022	531,277,181		\$71,318,841
Total assets.....	2,852,746,154	3,091,695,002	238,948,848	
Total capital stock.....	983,865,159	1,035,379,308	51,714,149	
Total funded department.....	1,337,939,549	1,641,024,830	303,085,281	
Other adjusted department.....	144,716,183	97,271,846		47,444,337
Current and accrued liabilities.....	214,440,540	214,722,515	281,975	
Balance profit and loss.....	91,651,933	103,296,456	11,644,523	
Total liabilities.....	2,852,746,154	3,091,695,002	238,948,848	
Freight receipts.....	314,587,335	354,153,332	39,565,997	
Passenger receipts.....	115,910,935	128,799,970	12,889,035	
Other income from operation.....	24,575,036	17,724,038		6,792,998
Rent of track and lands.....	6,005,845	1,015,310		4,990,535
Dividends on stock owned.....	13,709,274	15,106,562	1,397,288	
Interest on bonds and deposits.....	7,925,083	10,328,810	2,403,727	
Other income.....	8,670,807	15,026,525	6,355,718	
Total income.....	491,374,315	542,251,851	50,877,536	
Maintenance of way and structure.....	58,467,565	66,293,671	7,826,106	
Maintenance of equipment.....	73,052,222	80,766,241	7,914,019	
Conducting transportation.....	180,007,122	204,268,090	24,260,968	
General expenses.....	10,694,031	11,749,271	1,055,240	
Dividends.....	33,450,519	37,313,509	3,862,990	
Interest on funded department.....	53,909,311	63,332,503	9,423,192	
Rent of leased lines.....	20,416,518	22,239,646	1,823,128	
Taxes accrued.....	16,077,901	16,099,576	21,675	
Other disbursements.....	26,368,689	8,141,866		18,226,823
Surplus or deficit.....	22,863,736	22,863,761	25	
Total annual wages paid employees.....	3,568,954	3,615,241	46,287	
Total annual wages paid employees.....	33,803,569	38,568,263	4,764,693	

PASSENGERS, EMPLOYES AND ACCIDENTS.	1906.	1907.	Increase.	Decrease.
Passengers carried.....	113,934,754	126,825,950	12,891,196	
Total employees.....	54,333	60,922	6,589	
Trainmen.....	Killed..... 78	84	6	
Injured.....	1,402	1,575	173	
All other employees.....	Killed..... 29	57	28	
Injured.....	2,140	2,240	100	
Passengers.....	Killed..... 6	53	52	
Injured.....	347	491	144	
Postal clerks, express, baggage and Pullman employees.....	Killed..... 24	5	5	
Injured.....	24	17		7
Trespassers.....	Killed..... 181	154		27
Injured.....	207	171		36
Not trespassers.....	Killed..... 48	55	7	
Injured.....	193	163		30
Total.....	Killed..... 342	413	71	
Injured.....	4,313	4,657	344	

TABLE No. 10. REPORTS OF RAILROADS.

## INDIANA HIGHWAY AND STREET CROSSINGS.

	Steam Lines. 1.	Interur- ban Lines. 2.	Total.
Number grade street crossings on line.....	3,619	1,330	4,949
Number grade highway crossings on line.....	5,730	1,050	6,780
Number overhead highway crossings on line.....	170	13	183
Number overhead street crossings on line.....	54	4	58
Number under grade street crossings on line.....	107	.....	107
Number under grade highway crossings on line.....	225	11	236
Number such crossings protected by watchmen.....	638	2	640
Number such crossings protected by gates.....	274	1	275
Number such crossings protected by bell or otherwise.....	223	56	279
Number grade crossings not protected.....	8,194	2,310	10,504

1 Two lines not reporting.

2 Six lines not reporting.

TABLE No. 11. REPORTS OF RAILROADS.

## BLOCK SYSTEM IN INDIANA.

Miles line automatic block.....	73.63
Miles line manual telegraph block.....	1,428.77
Miles line controlled manual block.....	388.27
Total miles lines blocked in Indiana.....	1,890.67
Total miles Indiana lines subject to Act March 9, 1907.....	5,313.24
Miles to be equipped by July 1, 1909.....	3,422.57

## **APPENDIX IV.**

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### **Report of Inspections.**



## Report of Inspections.

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To the Railroad Commission of Indiana:

Gentlemen—There have been seventeen interlocking plants at railroad crossings inspected and installed. Plans have been examined and approved for the installation of eighteen interlocking plants, and plans have been examined and approved for the reconstruction of two plants.

Five thousand, eight hundred and seventy-four and ninety-two hundredths (5,874.92) miles of steam railroad have been inspected, and there remain thirteen hundred and twenty-eight and ninety-nine hundredths (1,328.99) miles of steam railroad yet to be inspected. Four hundred and seventy-one overhead obstructions and seven hundred and sixty-four lateral obstructions have been reported. The above are structures over tracks that were too low, and structures alongside of tracks that were too close to comply with the law, and were a menace to the safety and lives of employees.

One hundred and seven (107) defects on bridges. One hundred and thirty-two defects in platform, roadway and track, and thirty-nine defects of signals have been reported. The above includes signals out of adjustment, not complete or obstructed from view. Sixty-two instances where there was lack of proper sanitation. Sixty-seven cases of lack of suitable station facilities, and sixty-two stations where there was no provision for light or water.

Four hundred and ninety-nine and thirty-eight hundredths (499.38) miles of electric lines have been inspected, on which eight defects on bridges were found, fifty defects on signals, twenty-five defects on roadway and track. There are yet ten hundred and thirty-nine and fifty-five hundredths (1,039.55) miles of electric line to be inspected.

The roads of the following companies have been inspected:

Baltimore & Ohio & Chicago R. R. Company;  
Baltimore & Ohio Southwestern Railroad Company;  
Bedford Stone Railway Company;  
Central Indiana Railway Company;  
Chicago, Cincinnati & Louisville Railroad Company;

Chicago & Eastern Illinois Railway Company ;  
 Chicago & Erie Railroad Company ;  
 Chicago, Indianapolis & Louisville Railway Company ;  
 Cincinnati, Hamilton & Dayton Railroad Company ;  
 Cleveland, Cincinnati, Chicago & St. Louis Railroad Company ;  
 Evansville Belt ;  
 Evansville & Indianapolis Railroad Company ;  
 Evansville & Terre Haute Railroad Company ;  
 Grand Rapids & Indiana Railway Company ;  
 Illinois Central Railroad Company ;  
 Indianapolis Southern Railroad ;  
 Lake Erie & Western Railroad Company ;  
 Louisville & Nashville Railroad Company ;  
 New York, Chicago & St. Louis Railroad Company ;  
 Pittsburg, Cincinnati, Chicago & St. Louis Railroad Company ;  
 Pittsburg, Ft. Wayne & Chicago Railroad Company ;  
 Southern Railway Company ;  
 Toledo, St. Louis & Western Railroad Company ;  
 Vandalia Railroad Company ;  
 Wabash Railroad Company ;  
 Ft. Wayne & Wabash Valley Traction Company ;  
 Terre Haute, Indianapolis & Eastern (Electric).

While making inspection of electric lines, quite a number of test stops were made to determine the efficiency of the braking power and the minimum distance in which cars could be stopped. It was found that more satisfactory results could be obtained on cars equipped with straight air, and that the application of sand very materially assisted in making a stop on a dry rail, and especially so on a bad one. It was found also that the sanding arrangement on these cars was not at all satisfactory. If the sand box is located on the body of the car and the sand pipes lead from the car to the rail they would not sand the track on a curve. To overcome this rubber hose are sometimes used to lead from the sand box to the pipes, which are fastened to the truck. This is done to permit the car to round curves. Pneumatic sanders are generally used, and it was found that when the air was put on in full force it would not deliver sand, but would blow through, and was not at all satisfactory. These defects can be overcome, however, and the traction people are working on them.

Your inspectors, in going over the several roads, have endeavored to observe closely the physical road, the railroad men and their methods and everything that would pertain in any way to the safe operation of the road, and the convenience of passengers.

We are glad to note the numerous changes in local conditions that have been brought about through the influence of the Commis-

sion in regard to the moving of reported obstructions and correcting defects.

The railroad people co-operate with your inspectors and afford every facility for making these inspections; have been courteous and obliging, and have given us every assurance of their earnest desire to co-operate with the Commission.

Your inspectors cannot refrain from calling attention to some of the elements that contribute to accidents aside from the physical defects. It is not the wish of your inspectors to reflect upon the railroad men, for they are, as a rule, experienced and energetic, and are apparently as anxious to bring about a better condition as anyone can be. There is, however, apparently a lack of that stern appreciation of the importance of details. Many men fail to realize the influence their acts have on subordinates, and how far reaching they may be. A subordinate, or an official, who will see a rule violated without calling attention to it and exercising the proper discipline, or who will pass repeatedly an obstructed or defective signal without having it corrected, in fact, any employe who sees anything amiss, who notes any act of violation and fails to report it contributes, to a greater or less extent, to subsequent accidents. Railroad men do not seem to realize or appreciate how much a slight remission on their part may lead toward an accident and the sacrifice of human life.

The public contributes its part in bringing about a condition that causes accidents. Persons will cross a railroad track or walk along a railroad in front of a train, and when an alarm is sounded they make no move to indicate that they understand that there is an approaching train, so that engineers and motormen have no means of determining whether they are going to get off the track or not. This has brought about a condition among engineers and motormen, while not intentional, savoring of an indifference, and apparent disregard of human life. Your inspectors fully appreciate how difficult a problem it would be to attempt to educate the public, so that it is apparent that some action should be taken to absolutely prevent it. The opinion of your inspectors is that 90 per cent. of the accidents which occur are due to carelessness and habits formed that lead to a condition bordering on indifference.

Among railroad people there is what is known as departmental lines, that are entirely too closely drawn, until it has become a common thing for an official, in a subordinate position, to notice and pass by a defect that should receive attention, both in the interests of his company and the welfare of the public. Every man on a

railroad should be made to understand that it is his individual duty to strictly observe every rule, call attention to every defect in the road or the equipment that comes under his observation and report every violation, whether made by a superior or a subordinate.

It is the opinion of your inspectors that the desired results will not be obtained until individuals are punished for acts of criminal carelessness, and the errors of individual employes should not be covered up to shield a corporation from possible litigation.

Respectfully submitted,

A. SHANE,  
Chief Inspector.

Indianapolis, Ind., December 19, 1907.

After the Chief Inspector files his report of an inspection of any one line the same is referred to a member of the Commission for consideration and action. In practice these several reports are taken up in conference with the operating officials and considered in detail, and then followed by correspondence, treating each subject in detail and suggesting changes, alterations and improvements. The results of this work is shown in the following details:

#### DETAILS OF INSPECTION.

I. R. No.	Subject Matter.	Action.
1	Defective bridge guard rails ....	Corrected.
2	Defective bridge ties .....	Corrected.
3	Low highway bridge .....	Pending.
4	Low highway bridge .....	Elevated.
5	Low highway bridge .....	Being elevated. Pending.
6	Low highway bridge .....	Being elevated. Pending.
7	Low highway bridge .....	Pending.
8	Low railroad bridge crossing ....	Postponed.
9	Bad ties; no ballast .....	Being corrected. Pending.
10	Insufficient depot .....	Being corrected. Pending.
11	Insecure depot .....	Not practicable to correct.
12	No depot .....	Found to be unnecessary.
13	No depot .....	New one constructed.
14	Insufficient depot .....	Improvements made.
15	Defective station platform .....	Corrected.
16	Defective station platform .....	Corrected.
17	Water at depots .....	Supplied.
18	Stock chute clearance .....	Corrected.
19	Defective signals and signaling ..	Corrected.
20	Dangerous switch stand .....	Relocated.
21	No station and platform lights...	Supplied.
22	Defective highway crossings .....	Being corrected. Pending.



## DETAILS OF INSPECTION—Continued.

I. R. No.	Subject Matter.	Action.
23	Defective switch lights .....	Being corrected. Pending.
24	Defective motor power .....	Corrected.
25	Low highway bridge .....	Company willing to elevate. Town will not consent. Pending.
26	Highway bridge crossing .....	Under consideration.
27	General inspection .....	Taken up in detail.
28	Defective closets .....	Corrected.
29	Defective interlocking .....	Pending.
30	Defective switch lights .....	Corrected.
31	Defective station .....	New depot built.
32	Defective clearance .....	Partially corrected. Pending.
33	Coal shed clearance .....	Being corrected. Pending.
34	Coal shed clearance .....	Corrected.
35	Insufficient track clearance .....	Track lined away.
36	Low shed over scale track .....	Postponed.
37	Track clearance .....	Obstruction moved.
38	Track clearance .....	Partially corrected. Pending.
39	Track clearance .....	Partially corrected. Pending.
40	Track clearance .....	Obstruction moved.
41	Track clearance .....	Being corrected. Pending.
42	Track clearance .....	Corrected.
43	Track clearance .....	Pending.
44	Track clearance .....	Corrected.
45	Track clearance .....	Corrected.
46	Track clearance .....	Being corrected. Pending.
47	Track clearance .....	Track abandoned.
48	Track clearance .....	Pending.
49	Track clearance .....	Corrected.
50	No water at wooden bridges .....	Pending.
51	Track clearance .....	Corrected.
52	Track clearance .....	Being corrected. Pending.
53	Track clearance .....	Corrected.
54	Track clearance .....	Corrected.
55	Track clearances .....	Being corrected. Pending.
56	Track clearances .....	Being corrected. Pending.
57	Defective track and rails .....	Being corrected. Pending.
58	Insufficient drainage .....	Pending.
59	Excessive grade .....	Being eliminated. Speed reduced.
60	Defective road bed .....	Pending.
61	Insufficient track inspection .....	Pending.
62	Improper management and lack of interest .....	Protest filed with the president.
63	Insufficient track force .....	Increased.
64	General inspection .....	Taken up in detail.
65	General inspection .....	Taken up in detail.
66	Block system under new law .....	Plans approved.
67	Dangerous hedge fence .....	Pending.
68	Serious accident .....	Investigated.
69	Derailment .....	Investigated.
70	General inspection .....	Taken up in detail. Pending.
70	(a) Stock chute clearance .....	Being corrected. Pending.
70	(b) Track clearance .....	Being corrected. Pending.
70	(c) Drinking water at stations .....	Being supplied. Pending.
70	(d) Coal bin clearance .....	Being corrected. Pending.
71	Full crew law violation .....	Investigated.

## DETAILS OF INSPECTION—Continued.

I. R. No.	Subject Matter.	Action.
72	Overhead and lateral clearances..	Special visit by inspector. Operator made corrections as suggested by inspector.
73	Many light wooden culverts ....	Being re-inforced. Pending.
74	Many light wooden bridges .....	Being re-inforced. Pending.
75	Depot accommodations .....	Company declined to improve. Pending.
76	Running crossings .....	Prosecutions ordered. No results.
77	Railroad bridge crossing .....	Suspended.
78	Full crew law violations .....	Prosecutions instituted. Successful.
79	Serious accident .....	Caused by defective appliance. Reported to Interstate Commerce Commission.
80	General inspection .....	Taken up in detail.
81	Serious accident .....	Caused by side swiping. Investigated. Derails put in siding.
82	Low highway bridge .....	Being elevated. Pending.
83	Full crew law violations .....	Investigated.
84	Using engine without air .....	Investigated. Pending.
85	Full crew law violations .....	Investigated.
86	No closets in traction cars .....	Protest filed. Corrections made.
87	Sale of grain cars by trainmen...	Investigated. Unfounded report.
88	General inspection .....	Taken up in detail.
89	Using engine without air .....	Investigated.
90	Running crossings .....	Prosecutions ordered. No results.
91	Running crossings .....	Prosecutions ordered. No results.
92	General inspection .....	Taken up in detail.
93	Low high tension wires .....	Elevated.
94	Dangerous mail crane .....	Removed.
95	Low wires .....	Elevated.
96	Low roof .....	Pending.
97	Low guy wires .....	Ordered removed. Pending.
98	Bridge alarms .....	Installed.
99	Low tank spout .....	Being corrected. Pending.
100	Low guy wires .....	Elevated.
101	Overhanging tank spout .....	Elevated.
102	Low guy wires .....	Removed.
103	Low guy wires .....	Elevated.
104	Low water tank .....	Corrected.
105	Low guy wires .....	Removed.
106	Loose guard rails in bridges ....	Re-spiked.
107	Twenty-four wooden bridges .....	Twelve replaced.
108	Defective bridge alarms .....	Improved.
109	Insufficient depot .....	New one to be constructed. Location under consideration.
110	Depot and track clearance .....	Depot moved back.
111	No drinking water at stations....	Being supplied. Pending.
112	Insufficient depot .....	Conceded by company. New one to be constructed when double tracking is undertaken.
113	Depot unsanitary and needing repairs .....	Corrected.
114	Dangerous hedge fence .....	Being corrected. Pending.
115	Five hundred lateral obstructions on line .....	Request to move back from time to time so as to furnish clearance. Company agrees to comply. Pending.

## DETAILS OF INSPECTION—Continued.

I. R. No.	Subject Matter.	Action.
116	Low light wire .....	Elevated.
117	Low wires .....	Elevated.
118	Low wires and track clearance...	Corrected.
119	Low wires .....	Elevated.
	Additional Inspector B. & B. re-	
	quired .....	Inspector appointed.
120	Defective wooden bridges .....	Reinforced.
121	Defective station platforms .....	Repaired.
122	No water at depots .....	Company agreed to supply.
123	No depot .....	Construction being considered.
124	No platform lights .....	Being supplied.
125	Low highway bridge .....	Elevated.
126	No bridge alarms .....	Pending.
127	No bridge alarms .....	Supplied.
128	Low highway bridge .....	Being elevated.
129	Low highway bridge .....	Elevated.
130	Low highway bridge .....	Elevated.
131	No bridge alarms .....	Pending.
132	Low street lamp and wires .....	Pending.
133	Coal shed clearance .....	Track lined away.
134	Shed clearance .....	Corrected.
135	No bridge alarms .....	Supplied.
136	Coal shed clearance .....	City refused to remove. Pending.
137	Tank spout clearance .....	Elevated as required.
138	Barbed wire over track .....	Removed.
139	Stock chute clearance .....	Moved back.
140	Roller mill track clearance .....	Track lined away.
141	No cattle guards .....	Being supplied.
142	Bridge alarm practice .....	New standard being considered.
143	Defective interlocking .....	Corrections made.
144	Dangerous gravity switch .....	Derail installed.
145	No water at wooden bridges .....	Supplied.
145	(a) General inspection .....	Taken up in detail.
146	No switch lights .....	Pending.
147	Overhead clearance .....	Removed.
148	Cattle guards and wing fences...	Pending.
149	Insufficient embankment .....	Pending.
150	Defective foot guards .....	Pending.
151	Defective track .....	New steel laid.
152	Defective ditches .....	Being corrected. Pending.
153	Defective rail and track .....	Speed reduced. Road being ballasted.
154	Defective yard switches and leads.	Being corrected. Pending.
155	Defective bridge .....	Corrected.
156	No bridge alarms .....	Supplied.
157	Low shed .....	Proprietor refuses to correct. Pending.
158	Low shed .....	Proprietor refuses to correct. Pending.
159	Low telephone wires .....	Elevated.
160	Low steam pipe over track .....	Protest made. Pending.
161	Low depot roof .....	Corrected.
162	Low telephone wires .....	Elevated.
163	Low light wires .....	Elevated.
164	Depot roof .....	Pending.
165	Insufficient depot .....	Pending.
166	Defective platform .....	Pending.
167	Dangerous platform .....	Repaired.

## DETAILS OF INSPECTION—Continued.

I. R. No.	Subject Matter.	Action.
168	Dangerous platform .....	Renewed.
169	No closets .....	Supplied.
170	No depot .....	To be supplied when land can be procured.
171	Dangerous platform .....	Repaired.
172	Insufficient lateral clearances ....	Protest made. Pending.
173	Mail crane clearance .....	Being corrected. Pending.
174	Fence clearance .....	Corrected.
175	Insufficient lateral clearance ....	Corrected.
176	Insufficient lateral clearance ....	Corrected.
177	Low coal tramway .....	Being corrected. Pending.
178	Lateral clearances .....	Proprietor refuses to correct. Pending.
179	Lateral clearances .....	Proprietor refuses to correct. Pending.
180	Lateral clearance .....	Corrected.
181	Lateral stock pens .....	Protest made. Pending.
182	Lateral clearance .....	Corrected.
183	Lateral clearance .....	Corrected.
184	Lateral clearance .....	Corrected.
185	Lateral clearance .....	Corrected.
186	Lateral clearance .....	Pending.
187	Lateral clearance .....	Corrected.
188	Lateral clearance .....	Corrected.
189	Rock chute clearance .....	Protest made. Pending.
190	Rock chute clearance .....	Protest made. Pending.
191	Rock chute clearance .....	Protest made. Pending.
192	Insufficient track clearance ....	Pending.
193	Track clearance .....	Corrected.
194	Track clearance .....	Corrected.
195	Track clearance .....	Corrected.
196	Defective platform .....	Corrected.
197	Track clearance .....	Corrected.
198	Track clearance .....	Corrected.
199	Stock chute clearance .....	Corrected by company. One owned by private individual; refused to correct.
200	Train service .....	Improvements made by company.
201	Low guy wires .....	Removed.
202	Low freight house roof .....	Protest made. Pending.
203	Low traveling crane .....	Don't appear to be dangerous. Pending.
204	Projecting roof .....	Removed.
205	Low buildings .....	Found to not be dangerous. Postponement.
206	Low wires .....	Elevated.
207	Low roof .....	Pending.
208	Low wires .....	Elevated.
209	Low sheds .....	Not dangerous. Pending.
210	Low steam pipe .....	Corrected.
211	Low guy wire .....	Corrected.
212	Low light wire .....	Corrected.
213	Low light wire .....	Corrected.
214	Track clearance .....	Track lined away.
215	Coal shed clearance .....	Corrected.
216	Coal shed clearance .....	Track lined away.
217	Track clearance .....	Lined away.
218	Coal shed clearance .....	Track lined away.
219	Lateral clearance .....	Pending.

## DETAILS OF INSPECTION--Continued.

I. R. No.	Subject Matter	Action.
220	Track clearance .....	Tree removed.
221	Elevator clearance .....	Corrected.
222	Ties piled near track .....	Removed.
223	Platform clearance .....	Track lined away.
224	Track clearance .....	Proprietor refuses to correct. Pending.
225	Track clearance .....	Track lined away.
226	Track clearance .....	Track lined away.
227	Coal shed clearance .....	Corrected.
228	Track clearance .....	Corrected.
229	Coal shed clearance .....	Corrected.
230	Overhead clearance .....	Pending.
231	Elevation of tank spouts .....	Being corrected. Pending.
232	No foot guards .....	Company says they are of no value. Pending.
233	Obstruction of station grounds...	Corrected.
234	Plank crossings of highways.....	Being corrected. Pending.
235	Interlocker needed .....	Town objects to its location. Pending.
236	No bridge alarms .....	Supplied.
237	No bridge alarms .....	Protest made. Pending.
238	Dangerous street crossing .....	Company notified. Pending.
239	Violation of train rules .....	Protest made. Pending.
240	Violation of sixteen-hour law ....	Investigated.
241	Defective appliances .....	Protest filed. Repairs made.
242	Unsanitary depot .....	Corrected.
243	General inspection .....	Taken up in detail.
244	Violations of full crew law .....	Investigated.
245	Crossing accident .....	Investigated.
246	Highway crossing .....	(See No. 317 $\frac{1}{2}$ .)
247	Unsanitary passenger car .....	Protest made. Condition corrected.
248	Low foot bridge .....	Protest made. Pending.
249	General inspection .....	Taken up in detail.
249 $\frac{1}{2}$	General inspection. Defective stringers in bridges .....	Taken up in detail. Company ordered to remove defective stringers. Order complied with.
250	Dangerous street crossings .....	Pending.
251	Two light railroad bridges .....	Special expert employed. Company re- quested to support bridges. Being complied with.
252	Insufficient and unsanitary depot.	Held to be sufficient. Cleaned up by the company.
253	Defective steel viaduct .....	Corrected.
254	Defective stone box .....	Corrected.
255	No bridge alarms four places....	Being supplied.
256	Shelter shed clearance .....	To be corrected in the spring.
257	Tank spout clearance .....	Elevation made.
258	Low guy wire .....	Elevated.
259	Overhanging roof .....	Removed.
260	Braces across track .....	Removed.
261	Low shelter shed .....	Removed.
262	No bridge alarms .....	Being supplied. Pending.
263	Low guy and other wires at some twenty points on line .....	Being corrected. Pending.
264	Low shaft across tracks .....	Pending.
265	Low traveler over stone track....	Can't be improved.

## DETAILS OF INSPECTION—Continued.

I. R. No.	Subject Matter.	Action.
266	Overhanging depot roof .....	Waived.
267	Low foot bridge across track....	Pending.
268	Open sand pit along track .....	Track moved.
269	No water at stations .....	Orders issued to supply.
270	No lights at stations .....	Orders issued to supply.
271	Absence, defective and unsanitary closets at fifteen points on line.	Corrections being made.
272	Insufficient depot .....	Investigated and suspended for the present.
273	Defective platform .....	Repaired.
274	Defective platform .....	Repaired.
275	Defective platform .....	Repaired.
276	Defective platform .....	Being repaired. Pending.
277	New depot required, present station unsanitary .....	Company contemplates new structure soon. Promises to renovate present structure.
278	Defective depot and platform ....	Repairs made.
279	New joint depot needed .....	Being considered. Pending.
280	New joint depot needed .....	Being constructed.
281	Defective platform .....	Repaired.
282	Unsanitary closets .....	Corrected.
283	Defective platform curb .....	Repaired.
284	Defective platform curb .....	Ordered repaired. Pending.
285	New joint depot needed .....	Being constructed.
286	New joint depot needed .....	Being constructed.
287	Unsanitary depot and no closets..	Corrected.
288	Waste stone too close track.....	Ordered removed.
289	Shed clearance .....	Impossible to correct.
290	Shed clearance .....	Corrected.
291	Shed clearance .....	Corrected.
292	Shed clearance .....	Pending.
293	Elevator clearance .....	Track lined away.
294	Coal shed clearance .....	Track lined away.
295	Coal shed clearance .....	Pending.
296	Coal shed clearance three points.	Corrected.
297	Coal shed clearance .....	Corrected.
298	Telegraph pole clearance .....	Corrected.
299	Sand bin clearance .....	Corrected.
300	Lumber piles too close track....	Corrected.
301	Dangerous track alinement .....	Corrected.
302	Broken rail .....	Removed.
303	Dangerous track .....	Track abandoned.
304	Dangerous embankment .....	Use forbidden. Order observed. Improvement made.
305	Defective bridge guard rails....	Re-spiked and corrected.
306	No foot guards .....	Pending.
307	No crossing signs .....	Pending.
308	Additional inspector B. & B. needed .....	Pending.
308½	No block system .....	Plan under consideration.
309	No switch lights and reports of switch light failures .....	Lights supplied. Circular issued requiring trainmen and brakemen to report switch light failures.

## DETAILS OF INSPECTION—Continued.

I. R. No.	Subject Matter.	Action.
310	Derrails in gravity sidings .....	Company declined to supply. Postponed.
311	Open scale pit.....	Removed.
312	No water at wooden bridges.....	Ordered supplied.
313	Overhead clearance in city.....	Not corrected. Passed.
314	Mail crane clearances.....	Pending.
315	Bridge alarms .....	Ordered supplied.
316	Absence of car record.....	Supplied.
317	One low foot bridge and three low highway bridges across track .....	Waived as to foot bridge at shops. Highway bridges pending.
317½	Dangerous highway crossing.....	Overhead highway bridge being constructed.
318	Low under-crossing of railroads..	Pending.
319	Low under-crossing of railroads..	Pending.
320	Unsanitary cars. No air brakes. Interurban line .....	Cars cleared. Authority to control as to air brakes denied. Pending.
321	Trainmen required to move defective cars .....	Protest made to the company. Pending.
322	Dangerous highway crossing by interurban .....	Electric bell recommended and installed.
323	Failure to give highway signals..	Protest entered. Instructions given to observe the law.
324	Interurban cars without fenders..	The company requested to supply same. Supplied.
325	Defective eye beams and bridges..	Removed by order of Commission.
326	Defective coal dock .....	Repaired.
327	Bridge alarms at foot bridge....	Orders issued. Pending.
328	Overhead shed clearance.....	Erroneous report.
329	Low guy wires.....	Removed.
330	Overhanging roof .....	To be corrected. Pending.
331	Service spout clearance.....	Corrected on entire line.
332	Stock chute clearance.....	Corrected on the entire line.
333	Insufficient track clearance.....	Corrected.
334	Insufficient track clearance.....	Not subject to correction.
335	Insufficient track clearance.....	Ordered corrected. Pending.
336	Water and lights at depots.....	Being corrected. Pending.
337	Single closet at each of two stations .....	Being corrected. Pending.
338	Depot facilities .....	Additional facilities waived for the present.
339	Depot facilities .....	Additional facilities waived for the present.
340	Wing fences and cattle guards...	Company maintains wing fences. Cattle guards not deemed justifiable. Passed for the present.
341	Foot guards .....	This company maintains metal foot guards in frogs and switches. It is one of the large companies and thoroughly believes in the practice. Some other companies refuse to provide them.
342	Car order books.....	As now advised this company has failed to comply with section 6 of Shippers' Bill. Pending.

## DETAILS OF INSPECTION—Continued.

I. R. No.	Subject Matter.	Action.
343	Train rules .....	Protest made to the company against violations.
344	General inspection .....	Taken up in detail.
345	Defective spiking .....	Corrected
346	Defective spiking .....	Corrected
347	Elevation of tank spouts.....	Corrected
348	Lateral and overhead clearance...	Corrected
349	Insufficient depot .....	Water and light provided. Passed for present.
350	No light and no water.....	Provided.
351	No light and no water.....	Provided.
352	No light and no water. Defective platform .....	Corrected.
353	No light and no water; one closet.	Light and water supplied. No improvement in closets.
354	No light and no water.....	Supplied.
355	No depot .....	Being provided.
356	Depot facilities .....	Closets to be provided.
357	Depot facilities .....	Pending.
358	Depot facilities .....	Pending.
359	Depot facilities .....	Water and light provided. Pending as to closets.
360	Depot facilities .....	Closets to be provided.
361	Depot facilities .....	Pending.
362	Depot facilities .....	Water and light provided. Pending as to closets.
363	Insufficient depot .....	Under consideration.
364	Depot facilities .....	Double closets to be provided.
365	Obstructed platform .....	Corrected.
366	Depot facilities .....	Double closets to be provided.
367	Depot facilities .....	Water and light to be provided.
368	Block system .....	Examined by Inspector. Approved.
369	No cattle guards.....	Company says of no value. Pending.
370	Violations of sixteen-hour law by interurban .....	Investigated. Mistaken report.
371	Flying switch .....	Protest made. Practice stopped.
372	Unloading passengers on high speed track .....	Vigorous protest made. Pending.
373	Telephone wires over track.....	Removed.
374	Dangerous platform .....	Corrected.
375	Dangerous bridge .....	Personal visit by Chief Inspector. Report false.
376	Overhead clearance .....	Permission to maintain during construction of new overhead bridge.
377	Moving cars without air.....	Commission said cars could be moved if 75 per cent. of train had air.
378	Street crossings .....	Commission advised that towns of less than 700 population could require crossing bells.
379	Yard inspection .....	Taken up in detail.
380	Bridge inspection .....	Taken up in detail.
381	Violation of sixteen-hour law....	Investigated. Unavoidable.
382	Station lights .....	Corrected by one company. Other claims not necessary.
383	General inspection .....	Taken up in detail.



## DETAILS OF INSPECTION—Continued.

I. R. No.	Subject Matter.	Action.
384	Low guy wires .....	Pending.
385	Defective bridge guard rails.....	Pending.
386	Insufficient depot .....	Pending.
387	No depot .....	Pending.
388	No light and no water.....	Pending.
389	Road not fenced.....	Pending.
390	Wooden trestle .....	To be renewed.
391	Insufficient bridge .....	To be renewed in 1908.
392	Low highway bridge.....	Pending.
393	Unsanitary closets .....	Pending.
394	Low cable and shed.....	Corrected.
395	Overhead and lateral clearance...	Pending.
396	Overhead clearance .....	Removed.
397	Overhead clearance .....	Corrected.
398	Overhead clearance .....	Corrected.
399	No ballast .....	Company declines to correct.
400	Defective highway crossings.....	Protest made. Pending.
401	Low wires .....	Pending.
402	Mall crane clearances .....	Pending.
403	Traction cars without fenders....	Being corrected. Pending.
404	Traction line, failure to stop at B. B. crossing .....	Protest made. Conductor discharged. New rules promulgated.
405	Low wires .....	Pending.
406	No bridge alarms .....	Pending.
407	No bridge alarms .....	Pending.
408	No bridge alarms .....	Pending.
409	No bridge alarms .....	Pending.
410	No bridge alarms .....	Pending.
411	No light, no water and closets...	Pending.
412	Depot and platform not lighted..	Pending.
413	Closets .....	Pending.
414	Unsanitary depot. No platform lights .....	Pending.
415	No platform lights.....	Pending.
416	Depot accommodations .....	Pending.
417	Depot accommodations .....	Pending.
418	Depot accommodations .....	Pending.
419	Depot facilities .....	Pending.
420	Depot facilities .....	Company declines to improve. Pending.
421	Depot accommodations .....	Pending.
422	Low bridge .....	Being investigated.
423	Overhanging roof .....	Being corrected. Pending.
424	Track clearance .....	Pending.
425	Track clearance .....	Corrected.
426	Track clearance .....	Corrected.
427	Overhead clearance .....	Being corrected. Pending.
428	Low shed .....	Being corrected. Pending.
429	Low shed .....	Being corrected. Pending.
430	Track clearance .....	Corrected.
431	Low shed .....	Being corrected. Pending.
432	Low shed .....	Being corrected. Pending.
433	Track clearance .....	Corrected
434	Track clearance .....	Pending.
435	Defective platform .....	Corrected.

## DETAILS OF INSPECTION—Continued.

I. R. No.	Subject Matter.	Action.
436	Low shed .....	Being corrected. Pending.
437	Overhead clearance .....	Being corrected. Pending.
438	Low shed .....	Being corrected. Pending.
439	Main crane clearance .....	Pending.
440	Defective semaphores .....	Pending.
441	Proposed block system .....	Pending.
442	Switch locks .....	Corrected.
443	Defective highway crossing .....	Corrected.
444	Bad rail and defective ditches .....	Pending.
445	Insufficient ditching .....	Pending.
446	General inspection .....	Taken up in detail.
447	Defective splices .....	Being corrected.
448	Defective highway crossings .....	Pending.
449	Whistling posts .....	Pending.
450	Cattle guards .....	Pending.
451	Foot guards .....	Pending.
452	Fences .....	Pending.
453	General inspection .....	Corrected.
454	Defective switch ties .....	Being corrected.
455	Scale clearance .....	Corrected.
456	Mail crane clearance .....	Pending.
457	Defective bridge .....	To be rebuilt.
458	Defective siding .....	Spiked.
459	Violation of safety appliance law.	Prosecution ordered.
460	No bridge alarms .....	Corrected.
461	Bridge alarms; defective measurement .....	Not required.
462	No bridge alarms .....	Supplied.
463	Low conveyor, foot bridge, telephone and electric light wires ..	Being corrected. Pending.
464	Track clearance .....	Pending.
465	Low shed .....	Proprietor refuses to correct. Pending.
466	Low crossing and low wires .....	Corrected.
467	Low cables .....	Corrected.
468	Dangerous track .....	Pending.
469	Low shelter sheds .....	Pending.
470	Low bridge .....	To be elevated when double tracking is undertaken.
471	Low bridge .....	Pending.
472	Low bridge .....	To be elevated when double tracking is undertaken.
473	Bridge alarms .....	Being corrected. Pending.
474	Low bridge .....	Being elevated. Pending.
475	Low highway bridges .....	Being elevated. Pending.
476	Railroad bridge crossing .....	Pending.
477	Wooden structures .....	Pending.
478	Wooden trestles .....	Being renewed.
479	Defective bridge guard rails .....	Corrected.
480	Depot facilities .....	Instructions given to install platform lamps, erect double closets, furnish drinking water and to clean up the stations on the line.
481	Improper depot location .....	To be corrected as soon as the street can be opened.
482	Insufficient depot .....	New one to be constructed.

## DETAILS OF INSPECTION—Continued.

I. R. No.	Subject Matter.	Action.
483	Insufficient depot .....	To be relocated and put in good condition.
484	Insufficient facilities .....	Instructions given to provide lights, water closets and drinking water, and to keep the depots in sanitary condition at 18 different stations.
485	Depot .....	New one to be constructed.
486	Depots .....	One to be moved, one new one to be built.
487	Depot .....	New one to be constructed as soon as land is procured.
488	Insufficient depot .....	Improvement made by joint lines.
489	Overhanging service spout.....	Corrected.
490	Low bridge .....	Elevated.
491	Low traveling derrick.....	Pending.
492	Low shelter shed.....	Pending.
493	Low belt conveyor.....	Pending.
494	Shed clearances .....	Pending.
495	Shed clearances .....	Pending.
496	Shelter shed and low bridge.....	Pending.
497	Track clearances .....	To be corrected when new station is built.
498	Track alignment .....	Corrected.
499	Track clearance .....	Corrected.
500	Track clearance .....	Corrected.
501	Coal shed clearance.....	Corrected.
502	Stock chute clearances.....	To be corrected.
503	Inquiry concerning cross ties....	Closed.
504	Defective appliances .....	Inspector's report showed no improvement in the condition of the yards and cars. Protest filed with the superintendent.
506	Collision .....	Investigated.
507	Accident; derailment .....	Crew and officials examined under oath at the Commission's rooms. Responsibility fixed.
508	Accident .....	Investigated.
509	Location of employes.....	Gate operator taken from interlocker tower.
510	General inspection .....	Taken up in detail.
511	Highway crossing signs.....	Pending.
512	No closets on interurban cars...	Pending.
513	Track alignment .....	Pending.
514	Sand equipment on interurbans..	Pending.
515	Derailment .....	Investigated.
516	No depot .....	Material purchased; contract awarded; building being erected.
517	General inspection .....	Taken up in detail.
518	General inspection .....	Taken up in detail.
519	Track clearances .....	Corrected.
520	Low bridge .....	Pending.
524	Track clearance .....	Can not be corrected.
525	Unloading freight on depot platform .....	Pending.
526	Handling freight .....	Pending.

## DETAILS OF INSPECTION—Continued.

I. R. No.	Subject Matter.	Action.
527	Unsanitary depot .....	Pending.
528	Insufficient passenger and freight depot .....	Pending.
529	Low trolley wires.....	Corrected.
530	Dangerous highway crossing.....	Investigated. All trains stopped. Settled.
531	Low light wires and steam pipe..	Wires elevated. Pending as to pipe.
532	Defective appliances .....	Pending.
533	Defective track .....	Ties, ballast and rails supplied. All conditions corrected.
534	Water at bridges.....	Company declines to furnish.
535	Water at stations.....	Supplied.
536	Defective wooden platforms....	Being corrected.
537	No bridge alarms; low structures.	Corrected.
538	Tank spout clearance.....	Corrected.
539	Track obstruction .....	Investigated. Postponed.
540	Shed clearance .....	Company declined to change.
541	Passenger train service.....	Pending.
542	Light at stations.....	Provided.
543	Shed clearance .....	Corrected.
544	Wooden structures .....	Being corrected.
545	Lateral structures .....	Being corrected.
546	Closets, water, light.....	Provided.
547	Collision .....	Pending.
548	Insecure loading .....	Pending.
549	Violation of safety appliance law.	Pending.
550	Bridge alarms .....	Provided.
551	Block system .....	Pending.
552	Violation of sixteen-hour law....	Investigated.
553	Coal bin clearance.....	Pending.
554	Accident .....	Investigated.
555	Accident .....	Investigated.
556	Signals .....	Pending.
557	Coal bin clearance.....	Pending.
558	Unsanitary train .....	Pending.
560	Depot and closets.....	Provided.
561	Coal bin clearance.....	Pending.
562	General inspection .....	Taken up in detail.
563	Highway crossings .....	Since erected.
564	Crossing whistle .....	Pending.
565	Depot facilities .....	Pending.
566	River bridge .....	Pending.
567	Bridges .....	Pending.
568	Depot facilities .....	Pending.
569	Depot facilities .....	Pending.
570	Unsanitary closets .....	Pending.
571	New station .....	Pending.
572	Coal shed clearance.....	Corrected.
573	Coal shed clearance.....	Pending.
574	Elevator shed clearance.....	Pending.
575	Overhead clearance .....	Pending.
576	Overhead wires .....	Removed.
577	Coal shed clearance.....	Pending.
578	Coal shed clearance.....	Pending.
579	Overhead pipe clearance.....	Pending.

## DETAILS OF INSPECTION—Continued.

I. R. No.	Subject Matter.	Action.
580	Track clearance .....	Pending.
581	Dangerous platform .....	Pending.
582	Dangerous building .....	Pending.
583	Coal shed clearance.....	Pending.
584	Coal bin clearance.....	Pending.
585	Track clearance .....	Pending.
586	Mall crane clearance.....	Pending.
587	Highway crossing signs.....	Pending.
588	Foot guards .....	Pending.
589	Defective crossing .....	Pending.
590	Dangerous highway crossing.....	Pending.
591	Defective ties .....	Pending.
592	No bridge alarms .....	Pending.
593	Defective bridge .....	Pending.
594	Tank spout clearance.....	Pending.
595	Defective tracks .....	Pending.
596	Overhead clearances .....	Pending.
597	Low guy wires.....	Pending.
598	Low guy wires.....	Pending.
599	Low shelter sheds.....	Pending.
600	Low telephone and electric light wires .....	Corrected.
601	Shelter shed .....	Pending.
602	Shelter shed .....	Pending.
603	Low light and telephone wires...	Pending.
604	Mall crane clearances .....	Pending.
605	Platform clearance .....	Pending.
606	Track clearance .....	Pending.
607	Track clearance .....	Pending.
608	Coal bin clearance.....	Pending.
609	Low shelter sheds.....	Pending.
610	Elevator clearance .....	Pending.
611	Track alignment .....	Pending.
612	Depot facilities .....	Pending.
613	Depot facilities .....	Pending.
614	Depot facilities .....	Pending.
615	Depot and facilities.....	Pending.
616	Defective wooden platform.....	Pending.
617	Unsanitary closets.....	Pending.
618	Defective station platform.....	Pending.
619	Unsanitary closets .....	Pending.
620	Unsanitary closets .....	Pending.
621	Dangerous embankment .....	Pending.
622	Defective rail and ditching.....	Pending.
623	Insufficient track supervision and defective work .....	Protest made. Pending.
624	Insufficient ditching .....	Pending.
625	Dangerous railroad crossing.....	Pending.
626	Insufficient inspection force.....	Pending.
627	General inspection .....	Taken up in detail.
628	Insufficient bridges .....	Being renewed.
629	Loose bridge guard rails.....	Pending.
630	Low bridge .....	Pending.
631	Tank spout clearance.....	Corrected.
632	Depot facilities .....	Pending.

## DETAILS OF INSPECTION—Continued.

I. R. No.	Subject Matter.	Action.
633	Depot facilities .....	Pending.
634	Depot facilities .....	Pending.
635	Depot facilities .....	Pending.
636	Depot facilities .....	Pending.
637	Depot facilities .....	Pending.
638	Dangerous platform .....	Corrected.
639	Depot facilities .....	Pending.
640	Depot facilities .....	Pending.
641	Insufficient depot facilities .....	New modern station being erected.
642	Lateral clearances .....	Pending.
643	Mail crane clearances .....	Corrected.
644	Platform clearance .....	Pending.
645	Overhead clearance .....	Corrected.
646	Lateral clearances .....	Corrected.
647	Lateral clearances .....	Corrected.
648	Separation of grades .....	Postponement.
649	Track clearance .....	Corrected.
650	Block system .....	Pending.
651	Switch lamps .....	Pending.
652	Highway crossing signs .....	Pending.
653	Water barrels at bridges .....	Provided.
654	Bridge protection .....	Pending.
655	Car shortage .....	Corrected.
656	Depot facilities .....	Pending.
657	Station facilities .....	New station to be erected.
658	Violation of train rules .....	Pending.
659	Lateral obstructions .....	Pending.
660	General inspection .....	Taken up in detail.
661	Defective interlocker .....	Repairs made.
662	Change in interlocker .....	Authorized.
663	Change in depot location .....	Hearing had. Pending.
664	General inspection .....	Taken up in detail.
665	Wooden bridges .....	Pending.
666	Bridge work .....	Pending.
667	Protection at wooden bridges .....	Pending.
668	Bridges .....	Pending.
669	Bridges .....	Pending.
670	Loose bridge guard rails .....	Pending.
671	No bridge alarms .....	Pending.
672	Bridge .....	Pending.
673	No bridge alarms .....	Pending.
674	No bridge alarms .....	Pending.
675	Track alinement .....	Pending.
676	Elevator clearance .....	Pending.
677	Track alinement .....	Pending.
678	Low roof .....	Pending.
679	Roof clearance .....	Pending.
680	Low telephone wires .....	Pending.
681	Coal dock clearance .....	Pending.
682	Overhead clearance .....	Pending.
683	Low shelter shed .....	Pending.
684	Low shelter shed .....	Pending.
685	Overhead obstructions .....	Pending.
686	Overhead obstructions .....	Pending.
687	Low guy wire and shelter shed ..	Pending.

## DETAILS OF INSPECTION—Continued.

L. R. No.	Subject Matter.	Action.
688	Overhead obstructions .....	Pending.
689	Overhead obstructions .....	Pending.
690	Overhead obstructions .....	Pending.
691	Low bridge and steam pipe .....	Pending.
692	Low traveler beam .....	Pending.
693	Track clearance .....	Pending.
694	Tank spout clearance .....	Pending.
695	Track alinement .....	Pending.
696	Lateral clearance .....	Pending.
697	Track alinement .....	Pending.
698	Track alinement .....	Pending.
699	Shed clearance .....	Pending.
700	Coal yards .....	Pending.
701	Track alinement .....	Pending.
702	Track alinement .....	Pending.
703	Track alinement .....	Pending.
704	Track alinement .....	Pending.
705	Track alinement .....	Pending.
706	Track alinement .....	Pending.
707	Track alinement .....	Pending.
708	Track alinement .....	Pending.
709	Coal shed clearance .....	Pending.
710	Track alinement .....	Pending.
711	Track alinement .....	Pending.
712	Track alinement .....	Pending.
713	Lateral structures .....	Pending.
714	Depot accommodations .....	Pending.
715	Depot accommodations .....	Pending.
716	Depot accommodations .....	Pending.
717	Depot platform .....	Pending.
718	Station platform .....	Pending.
719	Platform .....	Pending.
720	Platform .....	Pending.
721	Platform .....	Pending.
722	Depot accommodations .....	Pending.
723	Depot accommodations .....	Pending.
724	Depot accommodations .....	Pending.
725	Depot accommodations .....	Pending.
726	Track clearance .....	Pending.
727	Station facilities .....	Pending.
728	Station closets .....	Pending.
729	Station accommodations .....	Pending.
730	Track conditions .....	Pending.
731	City bridge .....	Pending.
732	Dangerous cut .....	Pending.
733	Wooden bridges .....	Pending.
734	Dangerous trestle .....	Corrected.
735	Defective trestle .....	Pending.
736	Defective bridge .....	Being corrected.
737	Defective trestle .....	Pending.
738	Defective trestle .....	Pending.
739	Defective trestle .....	Pending.
740	Defective trestle .....	Pending.
741	Defective trestle .....	Pending.
742	Defective trestle .....	Pending.

## DETAILS OF INSPECTION—Continued.

I. R. No.	Subject Matter.	Action.
743	Defective trestle .....	Pending.
744	Defective trestle .....	Pending.
745	Defective trestle .....	Pending.
746	Defective trestle .....	Being corrected.
747	Defective trestle .....	Pending.
748	Defective trestle .....	Pending.
749	Defective trestle .....	Pending.
750	Defective bridge .....	Being corrected.
751	Defective trestle .....	Pending.
752	Defective trestle .....	To be corrected.
753	Defective trestle .....	Being corrected.
754	Defective trestle .....	Pending.
755	Defective trestle .....	Pending.
756	Defective bridge .....	Being corrected.
757	Defective trestle .....	Pending.
758	Defective trestle .....	Pending.
759	Defective culvert .....	Pending.
760	Defective culvert .....	Pending.
761	Defective culvert .....	Pending.
762	Defective culvert .....	Pending.
763	Defective culvert .....	Pending.
764	Defective culvert .....	Pending.
765	Defective culvert .....	Pending.
766	Defective culvert .....	Pending.
767	Defective culvert .....	Pending.
768	Defective culvert .....	Pending.
769	Defective culvert .....	Pending.
770	Defective culvert .....	Pending.
771	Defective trestle .....	Pending.
772	No light at station platform.....	Pending.
773	No light at station platform.....	Pending.
774	No light at station platform.....	Pending.
775	No light at station platform.....	Pending.
776	Station facilities .....	Pending.
777	Depot accommodations .....	Pending.
778	No light at platform and no water	Pending.
779	No light at platform.....	Pending.
780	No light, no water.....	Pending.
781	No light, no water.....	Pending.
782	Station lights and facilities.....	Pending.
783	No light at platform.....	Pending.
784	Station facilities, no platform light .....	Pending.
785	No light, no water.....	Pending.
786	Filthy drinking water.....	Pending.
787	Drinking water accommodations..	Pending.
788	No light, no water.....	Pending.
789	Unsanitary depot .....	Pending.
790	Unsanitary depot .....	Pending.
791	Drinking water accommodations..	Pending.
792	Drinking water accommodations..	Pending.
793	Low telephone wires.....	Pending.
794	Low guy wires.....	Pending.
795	Low traveler and low light wires.	Pending.
796	Overhead and lateral clearance...	Pending.



## DETAILS OF INSPECTION—Continued.

I. R. No.	Subject Matter.	Action.
797	Coal shed clearance.....	Pending.
798	Track alinement .....	Pending.
799	Track alinement .....	Pending.
800	Track clearance .....	Pending.
801	Track clearance .....	Pending.
802	Embankments .....	Pending.
803	Ditching .....	Pending.
804	Highway crossings .....	Being corrected.
805	Foot guards .....	Pending.
806	No derail in siding .....	Corrected.
807	Defective interlocking plant.....	Pending.
808	Defective interlocking plant.....	Pending.
809	Defective interlocking plant.....	Pending.
810	Crossing sign .....	Pending.
811	Railroad crossing .....	Pending.
812	Crossing conditions .....	Pending.
813	Condition of interlocker.....	Pending.
814	Condition of interlocker.....	Pending.
815	Improvements generally .....	Pending.
816	Track alinement. Special visit of inspector .....	Pending.
817	Yard engine practices.....	Pending.
818	Track clearance .....	Pending.
819	Violation of town ordinance.....	Pending.
820	Violation of town ordinance.....	Pending.
821	Violation of town ordinance.....	Pending.
822	Track clearance .....	Pending.
823	Low overhead bridge.....	Elevated.
824	Track obstruction .....	Pending.
825	General inspection .....	Taken up in detail.
826	Dangerous highway crossing.....	Pending.

## SAFETY APPLIANCE INSPECTION.

Pursuant to the commands of the act approved March 8, 1907, the Commission has undertaken an inspection of railroad equipment in this State. Preparatory to its work of inspection, the Commission issued its Circular No. 11, found in this report, Appendix VIII.

Inspectors D. E. Matthews and C. M. Preble have at different times had charge of this inspection. It is gratifying to state that in most instances the condition of yards and equipment have materially improved since the inspection has commenced, and we find the carriers generally are willing to improve conditions. We have as yet commenced no prosecutions under this statute, believing that the carriers were making an effort to comply with the law. In certain cases, unless there is an improvement soon, prosecutions will be commenced.

The result of such inspection is shown in the following table:

REPORT OF CARS INSPECTED FROM JULY 1 TO DECEMBER 31, 1907.

ROADS.	Cars Inspected.	Penalty Defects,	M. C. B. Defects.
B. & O.....	1,510	52	40
B. & O. S. W.....	300	10	8
C., C., C. & St. L.....	1,362	76	94
C. & E. I.....	169	4	13
C., I. & L.....	581	56	40
C., C. & L.....	157	7	11
C. & E.....	431	24	20
C., H. & D.....	430	29	12
E. & T. H.....	357	7	17
Ind. Harbor .....	503	7	23
Indpls. Southern .....	351	11	22
Ill. Cent.....	200	8	7
L. S. & M. S.....	626	14	22
L. & N.....	299	10	7
L. E. & W.....	726	28	37
Mich. Cent.....	755	22	30
N. Y. C. & St. L.....	428	9	11
P., C., C. & St. L.....	2,234	34	49
P., Ft. W. & C.....	585	15	21
Southern .....	275	10	11
T., St. L. & W.....	404	14	23
Sou. Ind.....	63	3	4
Vandalia .....	1,135	17	30
Wabash .....	783	38	20
Total .....	14,664	505	572

REPORTS OF ACCIDENTS.

Under the provisions of the General Commission Act, Chapter 241, Sec. 19 (Sub. A), Acts 1907, railroad companies must report to the Commission all accidents in this State and the causes thereof, involving loss of life or serious injury to passenger or employe. In order to organize and make effective this law, we issued on May 17th and 31st our Circulars Numbers 8 and 9 (Appendix VIII), prepared and mailed to the companies blank forms, and arranged and opened an accident docket, and placed the same in charge of one of our inspectors under the supervision of the Commission, and quarterly bulletins have been published and circulated among the carriers and the press and the public. The first two bulletins are hereto attached. Most of the companies have promptly mailed

to us the accident reports. A table is given below of the companies from whom no reports have been received. Some of these are very short lines, and doubtless have had no accidents. Others advise that they have had no accidents, and this fact is noted in the table. The Monon advises that they have had no accidents. The C., H. & D. failed to report through an error as to what department should make the report. Before our next bulletin is issued we will have the companies not reporting in shape so that they will advise if there are no accidents.

### ACCIDENT BULLETIN NO. 1.

TABLE No. 1.

*Companies Not Reporting, or Reporting "No Accidents."*

Angola Railway & Power Co.  
 Central Indiana Railroad Co.  
 Chicago, Indianapolis & Louisville Ry. Co. No accidents.  
 Chicago Junction Railroad Co.  
 Chicago & Wabash Valley R. R. Co. No accidents.  
 Chicago & South Bend R. R. Co. No accidents.  
 Cin., Bluffton & Chicago R. R. Co. No accidents.  
 Cin., Findlay & Ft. Wayne R. R. Co.  
 Cin., Hamilton & Dayton R. R. Co.  
 Cin., Lawrenceburg & Aurora Electric R. R. Co.  
 C., H. & D. R. R. Co.  
 Dayton-Xenia Transit Co.  
 Dayton & Western Traction Co.  
 Elwood, Anderson & Lapel R. R. Co. No accidents.  
 Evansville Belt.  
 Evansville & Mt. Vernon Electric.  
 Evansville & Southern Indiana Traction Co.  
 Evansville & Eastern Electric Railway.  
 French Lick & West Baden R. R. Co.  
 Hammond, Whiting & East Chicago Electric Railway.  
 Indianapolis Traction & Terminal Co.  
 Indiana Northern. No accidents.  
 Kentucky & Indiana Bridge Co. No accidents.  
 Kokomo, Marion & Western Traction Co.  
 Louisville, Henderson & St. Louis R. R. Co.  
 Louisville, New Albany & Corydon R. R. Co. No accidents.  
 Louisville & Southern Indiana Traction Co.  
 Muncie Belt Railroad Company.  
 Muncie & Portland Traction Co.  
 Muncie & Western R. R. Co. No accidents.  
 Northern Indiana R. R. Co.  
 Southern Michigan R. R. Co.  
 South Bend & South. Michigan Railway Co.  
 St. Joseph Valley Railroad Co.  
 Toledo & Chicago Interurban Railway Co.

The following tables, taken from the reports entered in the accident docket, show that the number of persons killed in train accidents during the months of July, August and September, 1907, was 107, and injured was 399. Of these, 99 were killed on the steam roads and eight (8) on the electric roads, and 365 were injured on the steam roads and 34 on the electric roads. This being our first bulletin, we have no measure of comparison with the three months just preceding, nor have all of the annual reports of the companies for the year ending June 30, 1907, reached us, so that we could make comparisons with last year. We have, however, on page 275 of the "First Annual Report of the Railroad Commission of Indiana" the reports of accidents on the steam railroads in Indiana, from which it appears that for the year ending June 30, 1906, the total killed was 432, and the total injured was 4,313. From this it follows that for an average quarter of the year there is an increase in the number of fatal accidents on the steam roads but a decrease in the number injured. Any comparison, however, is necessarily imperfect with the data we have. Bulletins in the future will be compared with the preceding bulletins, and with the fatalities and accidents of the year ending June 30, 1907.

TABLE No. 1.

*Casualties to Passengers, July, August and September, 1907.*

## WHERE, ETC.—

On passenger trains .....	57
On freight trains .....	2
On station grounds .....	5
Postal and expressmen .....	0

## CAUSES—

Collisions .....	28
Derailments .....	4
Getting on and off moving trains .....	14
Getting on and off trains after stops are made.....	3
Defective and unlighted stations and platforms.....	0
Miscellaneous .....	14

## RESULTS—

Deaths .....	6
Loss of limbs .....	0
Loss of fingers or toes .....	0
Spinal injury .....	3
Fractures or dislocations .....	4
Sprains .....	4
Cuts and bruises .....	46
Miscellaneous .....	8

TABLE No. 2.

*Casualties to Travelers on Highways, July, August and September, 1907.***WHERE—**

In vehicles .....	31
On foot .....	13

**CAUSES—**

Struck on crossings .....	34
Teams frightened .....	5
Defective crossings .....	0
Miscellaneous .....	5

**RESULTS—**

Deaths .....	28
Loss of limbs .....	1
Loss of fingers or toes .....	0
Spinal injuries .....	0
Fractures or dislocations .....	3
Sprains .....	1
Cuts and bruises .....	9
Miscellaneous .....	2

TABLE No. 3.

*Employees Killed or Injured During July, August and September, 1907.***EMPLOYMENT—**

Conductors .....	25
Enginemen .....	18
Firemen .....	26
Brakemen, roads and yards .....	114
Mechanics .....	12
Warehousemen .....	3
Laborers .....	52
Miscellaneous .....	59

**CAUSES—**

Coupling and uncoupling .....	20
Collisions .....	31
Derailments .....	18
Getting on and off trains .....	35
Caught in frogs and switches .....	2
Use of tools and machinery .....	13
Overhead obstructions .....	3
Falling from cars .....	28
Side obstructions .....	8
Miscellaneous .....	115
Defective tools and appliances .....	6

TABLE No. 3—Continued.

## RESULTS—

Deaths .....	29
Loss of limbs .....	6
Loss of fingers or toes .....	4
Spinal injuries .....	4
Fractures or dislocations .....	32
Sprains .....	45
Cuts and bruises .....	144
Miscellaneous .....	25

TABLE No. 4.

*Trespassers Killed or Injured During July, August and September, 1907.*

## WHERE—

On tracks .....	47
On trains .....	13
Miscellaneous .....	0

## RESULTS—

Deaths .....	36
Loss of limbs .....	12
Loss of fingers or toes .....	1
Spinal injuries .....	0
Fractures or dislocations .....	0
Sprains .....	1
Cuts and bruises .....	9
Miscellaneous .....	1

TABLE No. 5.

*Showing Results and Causes of Accidents During July, August and September, 1907.*

RESULTS, TOTAL	Death.	Loss of Limbs.	Fingers or Toes.	Spinal Injuries.	Fractures or Dislocations.	Sprains.
Passengers .....	6	0	0	3	4	4
Travelers on highways ....	28	1	0	0	3	1
Employees .....	29	6	4	4	32	45
Trespassers .....	36	12	1	0	0	1
Total .....	99	19	5	7	39	51

CAUSE TOTALS.	Collisions.	Derailments.	Getting On and Off Moving Trains.	Getting On and Off After Stops are Made.	Miscellaneous.
Passenger trains .....	28	4	14	3	14
Freight trains .....	31	18	35	0	115
Total .....	59	21	49	3	129

TABLE No. 5—Continued.

RESULTS, TOTAL.		Cuts and Bruises.	Miscel- laneous.
Passengers .....		46	8
Travelers on highways .....		9	2
Employees .....		144	25
Trespassers .....		9	1
Total .....		208	36

CAUSE TOTALS.	Coupling and Un- coupling.	Caught in Frogs and Switches.	Use of Tools and Machinery	Overhead Obstructions.	Fell from Side Cars.	Side Ob- structions.
Passenger trains .....	0	0	0	0	0	0
Freight trains .....	20	2	13	3	38	8
Total .....	20	2	13	3	38	8

Passenger trains .....	Defective Tools and Appliances
Freight trains .....	
Total .....	
Total damage to engines, cars and roadway .....	\$42,863
Total number wrecks .....	76
	53

TABLE No. 6.

*Showing Casualties on the Interurban Railroads During July, August and September, 1907.*

## WHERE—

On passenger trains ..... 24

## CAUSES—

Collisions ..... 11  
 Derailments ..... 5  
 Getting on and off moving trains ..... 3  
 Getting on and off trains after stops are made..... 1  
 Miscellaneous ..... 3

## RESULTS—

Deaths ..... 2  
 Fractures or dislocations ..... 1  
 Sprains ..... 1  
 Cuts and bruises ..... 11  
 Miscellaneous ..... 3

## WHERE—

Travelers on highways in vehicles ..... 7  
 On foot ..... 3

TABLE No. 6—Continued.

<b>CAUSE—</b>	
Struck on crossings .....	10
<b>RESULTS—</b>	
Deaths .....	3
Sprains .....	2
Cuts and bruises .....	2
Miscellaneous .....	3
<b>EMPLOYES.</b>	
<b>EMPLOYMENT—</b>	
Conductors .....	2
Motormen .....	4
Laborers .....	2
<b>CAUSES—</b>	
Collisions .....	3
Miscellaneous .....	5
<b>RESULTS—</b>	
Deaths .....	2
Fractures or dislocations .....	2
Sprains .....	1
Cuts and bruises .....	2
Miscellaneous .....	1
<b>WHERE—</b>	
Trespassers on tracks .....	3
Miscellaneous .....	2
<b>RESULTS—</b>	
Deaths .....	4
Fractures or dislocations .....	1
Collisions, 5; damage, \$50.00.	

TABLE No. 7.

*The Following Table Shows the Total Casualties on the Interurban Roads.*

Deaths .....	8
Injured .....	34

TABLE No. 8.

*The Following Table Shows the Total Casualties on All the Railroads.*

**DEATHS.**

Steam roads .....	99
Electric roads .....	8
Total deaths .....	107



TABLE No. 8—Continued.

## INJURED.

Steam roads .....	367
Electric roads .....	34
Total Injured .....	401

We note from the above tables that while six persons, passengers, were killed on or about trains, 28 persons were killed on highway crossings. Not only has the speed of trains nearly if not quite doubled since many of the highway crossings were constructed at grade, but on account of the fact that the steam roads are paralleled by interurban railroads, constructed just outside of and adjacent to the rights of way of the steam roads, the dangers of crossing two railroads at the same minute of time, on each of which fast trains or cars are running, is very greatly increased. The definite policy of the Commission with reference to the separation of the grades of intersecting railroads has been extended to the separation of the thousands of highway crossings in this State. This is a matter of time and detail and expense, but the Commission has commenced by taking steps to gather up information as to the number, location, situation and condition of every highway grade crossing in the State.

Meanwhile we wish to call especial attention to the fact that we have received reliable information that the highway signals are often not given as clearly and constantly as they should be given, and as the law of this State under severe penalties requires. It is said that some engineers are good whistlers, sounding the signal loud enough and long enough to give full warning, while others fail in this respect. We shall issue a circular on this subject to the companies, calling attention to the very severe penalties, and emphasizing the same with the number of deaths which occurred at these crossings during the last quarter.

The large number of accidents to trespassers on the tracks has attracted our attention. For the three months thirty-six (36) persons were killed, and in addition twelve (12) more lost their limbs by trespassing on the tracks of the railroads. Railways are public highways in one sense, but certainly not public highways for footmen or persons traveling in any way except in railway cars. It must be remembered that no one has the least semblance of right to use a railway as a public footing or sidewalk. The great number of fatalities show the startling danger of this unauthorized use and

indicates the necessity for some legislation which would subject to certain arrest persons thus trespassing on the tracks.

It will be noticed that 114 brakemen were killed or injured. Of this large number twenty (20) were injured in coupling and uncoupling. It would seem that with the use of automatic couplers this is a very large number to have been injured in this way. Our inspector calls attention to the fact of the use by one of the companies of a horizontal handle to the uncoupling lever, which he thinks should be dispensed with, because it sometimes catches the hands or fingers of the men when car is on curve or entering switch leads. The Commission has called the attention of one of the carriers using lever equipped in this way to the injuries resulting from it.

With reference to the 18 derailments, the Commission has not before it sufficient information to discuss each case at this time. Our attention is called, however, to the fact that in many of the smaller towns and stations the telegraph office and interlocking tower is made the loafing place of the town loafer and of small boys and worthless characters. This is against the rules of the companies, but the rule is not enforced. As a matter of protection to the traveling public and employes the rule should be enforced not only by the tower men and operators, but by the town marshals and policemen, and by ordinances of the towns and cities passed to protect the public from this danger.

It will be noted that 38 employes were injured by falling from cars. We can not state accurately in this bulletin, from the information in the reports, why so many were injured in this way. Some companies employ a top inspector. This man keeps the roofs of the cars in good shape and repairs the running boards and brakes or any defects on top of the cars. Other companies have no such inspector. We think such a man very necessary and that top inspection should be made by all the companies. In this connection attention is called to the work of our Safety Appliance Inspector. In July, August and September this office inspected 9,332 cars. The penalty defects, which are defects that affect safety appliances, were 94 for the month of July, 74 for August and 44 for September, thus indicating the benefit of the work done by him. It is believed that this work will greatly aid safe operation.

It can not be affirmed that our first reports and the first bulletin are absolutely accurate. For instance, we have reported as injured for the three months 401, while for the year ending July 30,

1906, the steam roads reported 4,313 injured. All errors or failures or discrepancies in this report will be more carefully scrutinized and corrected as the Commission shall proceed to organize and establish the most important department of its duties.

## ACCIDENT BULLETIN NO. 2.

### STEAM ROADS.

Table No. 9 of this, our second, Accident Bulletin shows that for the quarter ending December 31, 1907, there were 85 persons killed on the steam railroads of the State, and 408 injured, to be compared with 99 killed and 367 injured for the preceding quarter; hence there were 14 less killed on these roads but 41 more injured than for the quarter ending September 30, 1907. The increase in injuries is accounted for by the head-on collision on the Wabash at Fort Wayne, November 9th, when 39 persons were injured.

### INTERURBAN ROADS.

During this quarter, however, the interurban roads increased from 8 to 14 killed and from 34 to 70 injured. Derailment on the I. U. T. Co., at Indianapolis, November 7, causing one death and 23 injuries, and derailment on the I. & C. T. Co., at Acton, December 12, causing 1 death and 4 injuries, partly account for these differences. They have been noted by the Commission with great solicitude, and the Commission is taking such steps for prevention as it is authorized to do, which will be more fully set out in our next Bulletin.

### STEAM AND INTERURBAN.

The total killed, steam and interurban, was 99, against 107, and injured 478, against 401, for preceding quarter.

The Railway Age, December 13th, criticised our first Bulletin for grouping injuries not serious under the word Casualties, and for not separating more distinctly accidents over which the railroads have no control from those for which they are more directly responsible. We have no desire to add anything to the horror and magnitude of the fatalities. It is true that more persons are killed on highway crossings and while trespassing than passengers or employes working about the trains or on the railways, and we shall be glad to tabulate our information in any way that will make clear

the facts, and expect to do this better as we get our work systematized and organized. So we shall state here that of the 99 killed, 38 were trespassers, and 28 travelers on the highway crossings.

#### TRESPASSERS.

As to these persons killed on the railroads while using these dangerous ways for footwalks or sidewalks, we can only repeat the warnings of our first Bulletin, and reiterate our firm conviction that drastic legislation will be necessary to keep trespassers off of railway tracks. Leaving out of consideration the folly of the sacrifice of 38 lives this quarter, ten more than during the preceding quarter, it is only fair and just to the carriers that they should be allowed to use their property exclusively for railroad purposes. It is especially unfair to the enginemen, who on limited trains are under the severest pressure to perform their manifold work, that they should be disturbed by persons on the track, who often appear unconcerned and heedless of the signals and desperate dangers to which they subject themselves. It is the purpose of the Commission to recommend in its next report to the Governor practical measures to abate this fatal nuisance; perhaps a recommendation to have enacted laws controlling on English railways, which require signs at crossings warning travelers to turn neither to the right or left on the railways and bulletins in the passenger depots, naming offenders and the fines and punishments imposed for trespassing on the tracks.

#### HIGHWAY CROSSINGS.

Here the case is different and the responsibility is divided. The common roads are just as necessary, if not more so, to the people than the steam or electric highways and they are the oldest in use and occupation. Now the theory of the law is that the railroad should be laid across the highway in such manner as will not practically interfere with its use as a highway. The law imposes on the railroad companies the obligation of construction so as not to impair ordinary travel on the common roads. When the railroads were first constructed the speed of their trains was less than half of what it is now. We can imagine, if they had run at first with the speed the public now demands, that few charters would have been granted except for construction above or below the highway crossing, an absolute separation of grades. If all the fatalities that have taken place on the crossings could have been foreseen common

humanity would have so required the law to be enacted. But the promoter and adventurer flourished in those days, developing into the giant of high finance in later days, and the railroad was laid at the death grade over and upon the primitive roads and the yearly harvest commenced which has also developed with the country, until now the daily toll of at least one human life is paid for the operation of the railways upon highway crossings.

Our investigation show that there are more than 10,000 unprotected highway crossings in the State. We know that for real safety the grades should be separated at each one and all of these crossings, but it will be many years, and many funerals of the victims of highway crossings will take place, before the Railroad Commission of Indiana can announce that there are no grade crossings in the State. Meanwhile, we must point out to the people and the companies the danger and the advisability of taking all possible protective steps. We shall hereafter probably suggest to the people the provisions which the wisdom of States like Massachusetts and Ohio have adopted for some proper division of the expense of separating the grades; to the railroad companies we shall recommend the keeping of these highway crossings in perfect repair and the construction and repair of crossings signs.

#### CROSSING SIGNS.

The Commission was surprised to find, in view of the general use of these signs throughout the country, that there is no statute of Indiana requiring such signals. To children and feeble-minded and slow-thinking persons and travelers not acquainted with the country and indeed to all persons, the warning advertisement of instant danger cannot be overestimated. Our inspectors constantly invite our attention to the necessity of placing these signs at highway crossings of both steam and interurban roads at the same place. A report of a recent inspection made by our Chief Inspector of one of the best equipped and best managed lines of the State says: "They do not maintain highway crossing signs on any part of the line." It is the opinion of this inspector that they should be required to maintain highway crossing signs, particularly where they parallel immediately to a steam railroad. These signs should be so constructed and so worded to indicate that there are two roads to be crossed, an electric line and a steam road, and they should be placed on the highway on the opposite side of the electric lines from the steam railroad. Notwithstanding the steam railroads in

most places have highway crossing signs, yet they should be required to construct a sign in such cases that there are two roads to cross, a steam and an electric, and place the same on the opposite side of the steam railways from the electric lines. We expect to send out our circular letter to the carriers, recommending that a new, improved, vivid and conspicuous crossing sign shall be used, and that a special officer shall be sent out on each line to install and properly locate these signs, both where none have been provided and where repairs or better ones are needed.

#### EMPLOYEES.

We note from Table No. 4 that there were 29 employees killed during this quarter against 29 the last quarter, no increase, no decrease. In our first Bulletin we adverted to the large number, 28, injured by falling from cars, and made some suggestions as to that cause of accident. We are glad to note a decrease to 19 from this cause. But again in our last Bulletin we called attention to the fact that 20 were injured from coupling or uncoupling, and commented on this with reference to the Safety Appliance Laws of the Federal Government and the State of Indiana. We note instead of a decrease an increase from 20 to 21 injured from making couplings. The Commission recently investigated one of these accidents and found that the man went in where there was absolutely no reason to do so. Defects in overhead and side obstructions, frogs, switches and signals have been reported to us and we are having these remedied. For instances and comparison, see Table No. 4, Employees Killed or Injured:

	First Quarter.	This Quarter.
Caught in frogs and switches .....	2	0
Use of tools and machinery .....	13	0
Overhead obstructions .....	3	1
Side obstructions .....	8	5
	—	—
Total these causes .....	26	6

But note also:

	First Quarter.	This Quarter.
Coupling and uncoupling .....	20	21
Collision .....	31	61
Getting on and off trains .....	35	17
Derailments .....	18	23
	—	—
	104	127

That is to say, that where carelessness or recklessness of the employes might have caused or contributed to the injuries, there seems to be an increase instead of a decrease in these accidents.

In view of these facts and tables, we urge upon railroad men greater care and vigilance; also better knowledge and obedience of the rules and to report to this Commission each person and everything causing or contributing to these accidents.

TABLE No. 1.

*Companies Not Reporting (a), or Reporting "No Accidents" (b).*

b	Angola Railway & Power Co.
b	Chicago Junction Railroad Co.
b	Chicago & Wabash Valley R. R. Co.
b	Chicago & South Bend R. R. Co.
a	Cin., Bluffton & Chicago R. R. Co.
a	Cin., Findlay & Ft. Wayne R. R. Co.
a	Cin., Hamilton & Dayton R. R. Co.
a	Cin., Lawrenceburg & Aurora Electric R. R. Co.
a	C., H. & D. R. R. Co.
a	Dayton & Western Traction Co.
a	Elwood, Anderson & Lapel R. R. Co.
b	Evansville & Mt. Vernon Electric.
b	Evansville & Southern Indiana Traction Co.
b	Evansville & Eastern Electric Railway.
b	French Lick & West Baden R. R. Co.
a	Hammond, Whiting & East Chicago Electric Railway.
a	Indiana Northern.
b	Kentucky & Indiana Bridge Co.
a	Kokomo, Marion & Western Traction Co.
b	Louisville, New Albany & Corydon R. R. Co.
b	Muncie Belt Railroad Company.
a	Muncie & Portland Traction Co.
b	Muncie & Western R. R. Co.
a	Northern Indiana R. R. Co.
a	Pere Marquette Railroad Co.
b	Southern Michigan R. R. Co.
a	South Bend & South. Michigan Railway Co.
b	St. Joseph Valley Railroad Co.
a	Toledo & Chicago Interurban Railway Co.

TABLE No. 2.

*Casualties to Passengers, October, November and December, 1907.*

WHERE, ETC.—	1st. Qr.	2d. Qr.
On passenger trains .....	57	53
On freight trains .....	2	1
On station grounds .....	5	4
Postal and expressmen .....	0	8

TABLE No. 2—Continued.

<b>CAUSES—</b>		
Collisions .....	28	43
Derailments .....	4	6
Getting on and off moving trains .....	14	6
Getting on and off trains after stops are made.....	3	5
Defective and unlighted stations and platforms.....	0	0
Miscellaneous .....	14	16
<b>RESULTS—</b>		
Deaths .....	6	3
Loss of limbs .....	0	1
Loss of fingers or toes .....	0	0
Spinal injury .....	3	0
Fractures or dislocations.....	4	3
Sprains .....	4	9
Cuts and bruises .....	46	59
Miscellaneous .....	8	1

TABLE No. 3.

*Casualties to Travelers on Highways, October, November and December, 1907.*

<b>WHERE—</b>	1st Qr.	2d Qr.
In vehicles .....	31	19
On foot .....	13	14
<b>CAUSES—</b>		
Struck on crossings .....	34	29
Teams frightened .....	5	0
Defective crossings .....	0	0
Miscellaneous .....	5	4
<b>RESULTS—</b>		
Deaths .....	28	15
Loss of limbs .....	1	0
Loss of fingers or toes .....	0	1
Spinal injuries .....	0	0
Fractures or dislocations .....	3	2
Sprains .....	1	1
Cuts and bruises .....	9	14
Miscellaneous .....	2	0

TABLE No. 4.

*Employees Killed or Injured During October November and December, 1907.*

<b>EMPLOYMENT—</b>	1st Qr.	2d Qr.
Conductors .....	25	29
Enginemen .....	18	32
Firemen .....	26	54



TABLE No. 4—Continued.

Employment—	1st Qr.	2d Qr.
Brakemen, roads and yards	114	108
Mechanics	12	4
Warehousemen	3	0
Laborers	52	72
Miscellaneous	59	9
<b>CAUSES—</b>		
Coupling and uncoupling	20	21
Collisions	31	61
Derailments	18	28
Getting on and off trains	35	17
Caught in frogs and switches	2	0
Use of tools and machinery	13	0
Overhead obstructions	3	1
Falling from cars	28	19
Side obstructions	8	5
Miscellaneous	115	154
Defective tools and appliances	6	0
<b>RESULTS—</b>		
Deaths	29	29
Loss of limbs	6	8
Loss of fingers or toes	4	10
Spinal injuries	4	0
Fractures or dislocations	32	45
Sprains	45	51
Cuts and bruises	144	157
Miscellaneous	25	10

TABLE No. 5.

*Trcpsassers Killed or Injured During October, November and December, 1907.*

WHERE—	1st Qr.	2d Qr.
On tracks	47	53
On trains	13	24
Miscellaneous	0	2
<b>RESULTS—</b>		
Deaths	36	38
Loss of limbs	12	10
Loss of fingers or toes	1	2
Spinal injuries	0	0
Fractures or dislocations	0	8
Sprains	1	0
Cuts and bruises	9	19
Miscellaneous	1	2

TABLE No. 6.

*Showing Results and Causes of Accidents During October, November and December, 1907.*

RESULTS, TOTAL.	Death.	Loss of Limbs.	Fingers or Toes.	Spinal Injuries.	Fractures or Dislocations.	Sprains
Passengers .....	3	1	0	0	3	9
Travelers on highways ....	15	0	1	0	2	1
Employees .....	29	7	10	0	44	51
Trespassers .....	38	10	2	0	8	0
Total .....	85	18	13	0	57	61

CAUSE TOTALS.	Collisions.	Deraillments.	Getting On and Off Moving Trains.	Getting On and Off After Stops are Made.	Miscellaneous.
Passenger trains .....	43	6	6	5	15
Freight trains .....	61	28	18	0	152
Total .....	104	34	24	5	167

RESULTS TOTAL.	Cuts and Bruises.	Miscellaneous.
Passengers .....	59	1
Travelers on highways .....	14	0
Employees .....	153	10
Trespassers .....	19	2
Total .....	245	13

CAUSE TOTALS.	Coupling and Uncoupling.	Caught in Frogs and Switches.	Use of Tools and Machinery	Overhead Obstructions.	Fall from Cars.	Side Obstructions.
Passenger trains .....	0	0	0	0	0	0
Freight trains .....	21	0	0	1	19	5
Total .....	21	0	0	1	19	5

	Defective Tools and Appliances.
Passenger trains .....	0
Freight trains .....	0
Total .....	0

Total damage to engines, cars and roadway.....	\$55,384 19
Total number wrecks .....	80

TABLE No. 7.

*Showing Casualties on the Interurban Railroads During October, November and December, 1907.*

WHERE—	1st Qr.	2d Qr.
On passenger trains .....	24	59

TABLE No. 7—Continued.

CAUSES—		1st Qr.	2d Qr.
Collisions .....	11	2	
Derailments .....	5	52	
Getting on and off moving trains.....	3	0	
Getting on and off trains after stops are made.....	1	0	
Miscellaneous .....	3	5	
RESULTS—			
Deaths .....	2	2	
Fractures or dislocations .....	1	6	
Sprains .....	1	4	
Cuts and bruises .....	11	47	
Miscellaneous .....	3	0	
WHERE—			
Travelers on highways in vehicles.....	7	6	
On foot .....	3	8	
CAUSE—			
Struck on crossings .....	10	14	
RESULTS—			
Deaths .....	3	7	
Sprains .....	2	3	
Cuts and bruises .....	2	4	
Miscellaneous .....	3	0	
EMPLOYEES.			
EMPLOYMENT—			
Conductors .....	2	0	
Motormen .....	4	5	
Laborers .....	2	3	
CAUSES—			
Collisions .....	3	4	
Miscellaneous .....	5	4	
RESULTS—			
Deaths .....	2	3	
Fractures or dislocations .....	2	3	
Sprains .....	1	0	
Cuts and bruises .....	2	2	
Miscellaneous .....	1	0	
WHERE—			
Trespassers on tracks .....	3	3	
Miscellaneous .....	2	0	
RESULTS—			
Deaths .....	4	2	
Fractures or dislocations .....	1	1	
Collisions, 5; damage, \$3,242.50.			

TABLE No. 8.

The Following Table Shows the Total Casualties on the Interurban Roads.

	1st Qr.	2d Qr.
Deaths .....	8	14
Injured .....	24	70

TABLE No. 9.

The Following Table Shows the Total Casualties on All the Railroads.

## DEATHS.

1st Qr. 2d Qr.

Steam roads .....	99	85
Electric roads .....	8	14
Total deaths .....	107	99

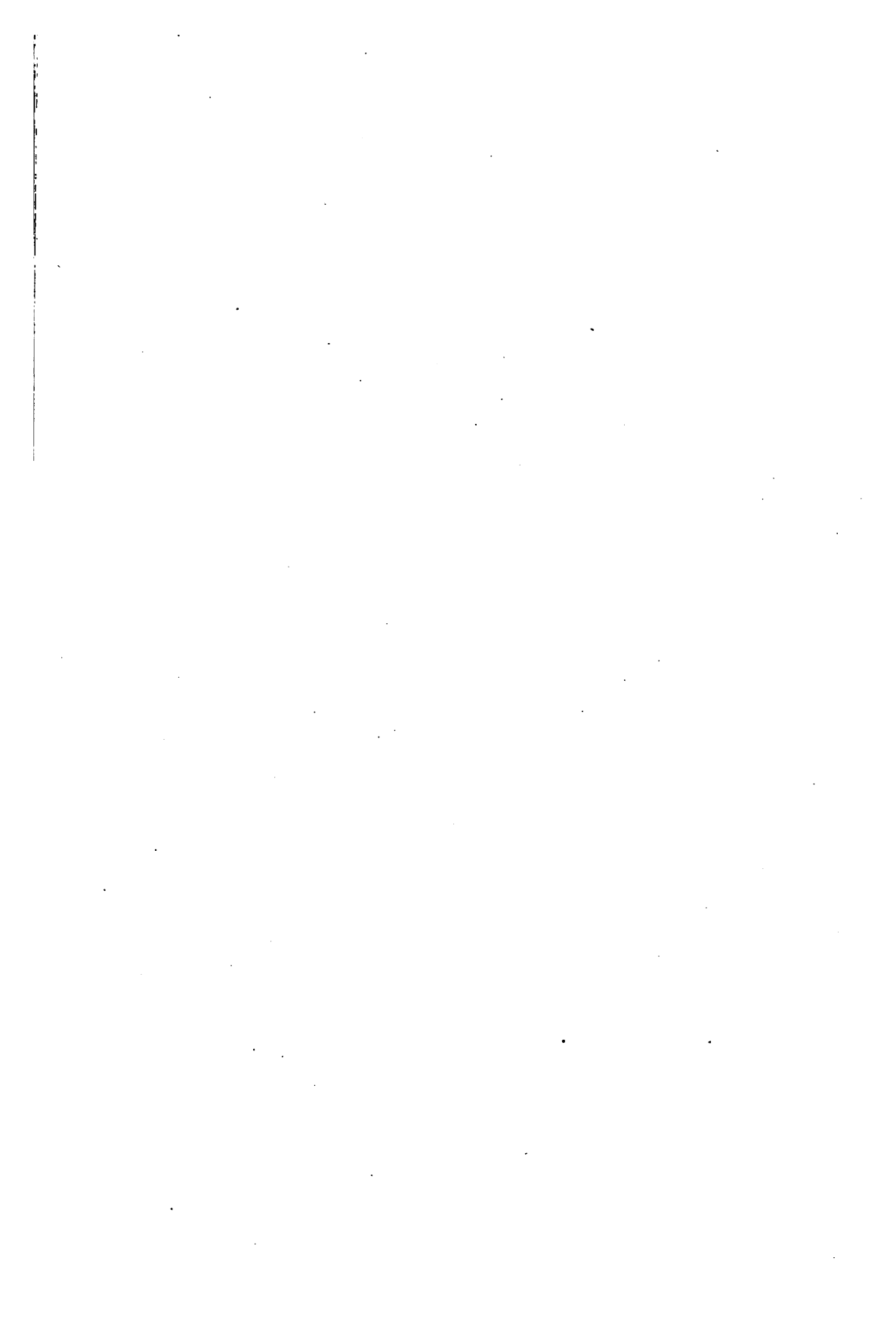
## INJURED.

Steam roads .....	367	408
Electric roads .....	34	70
Total injured .....	401	478

**APPENDIX V.**

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**Tariff Report.**



## Tariff Report.

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To the Railroad Commission of Indiana:

Gentlemen—I have the honor to tender herewith report of your Department of Tariffs from May 1, 1907, to and including November 30, 1907, as follows:

Under direction of the Commission the Department of Tariffs was organized May 1, 1907, for the expeditious and orderly filing and preservation of all tariffs and schedules of rates, classifications and matters pertinent thereto, issued and filed with the Commission by the carriers subject to Section 9 of the act approved March 9, 1907, and for the further purpose of investigating traffic and rate conditions within the State of Indiana and reporting thereon to the Commission.

All tariffs and schedules of rates, classifications, exceptions to classification, rulings, etc., in effect on the several lines of railroad in the State upon intrastate traffic on the 9th day of June, 1907, were carefully checked in with representatives of each of the carriers and filed in this Department. All such tariffs were duly registered under consecutive I. R. C. numbers, and each tariff received for filing is acknowledged receipt of, registered under its I. R. C. number and filed.

Rules and regulations governing the construction and filing freight and passenger tariffs were, under direction of the Commission, promulgated and served upon all carriers within the State, and such rules and regulations are embodied in Department of Tariffs Circulars Nos. A-1 and B-1, respectively, as follows:

DT Circular No. A-1 cancels all  
Tariff Circulars issued by Depart-  
ment of Tariffs, and includes all  
Rules and Regulations concerning  
freight tariffs and classifications.

# RAILROAD COMMISSION OF INDIANA.

UNION B. HUNT, Chairman.  
WM. J. WOOD } Commissioners  
C. V. MCADAMS }  
CHAS. B. COLE, Secretary  
L. E. MORTON, Clerk.

DEPARTMENT OF TARIFFS,  
L. E. MORTON, Clerk.

## DEPARTMENT OF TARIFFS.

### Circular No. A-1.

#### RULES AND REGULATIONS GOVERNING THE CONSTRUCTION AND FILING OF FREIGHT TARIFFS AND CLASSIFICATIONS.

Indianapolis, Ind., July 5, 1907.

Refer to Department of Tariffs Circulars 1, 2, 3, 4, 5, and 6 and cancel same and be advised that this Circular contains all rules and regulations promulgated to date by the Railroad Commission of Indiana governing the construction and filing of freight tariffs and classifications, and that from and after said 5th day of July, 1907, all rules and regulations governing the construction and filing of freight tariffs and classification will be promulgated in Department of Tariffs Circulars numbered consecutively herewith, bearing the prefix "A."

1. Section 9 of the Act, approved March 9, 1907, which regulates the issuing, publication and filing of tariffs, became effective on June 9, 1907, unless for cause the time has been extended by the Commission. After that time it became unlawful for any carrier subject to the Act to perform any service without having first published and filed a tariff therefor, as required by the Act.

#### 2. Effective June 9, 1907:

(a) All tariffs or schedules forwarded for filing with the Commission must be addressed to—

"L. E. Morton, Clerk,

Dept. of Tariffs, Railroad Commission of Indiana,

Indianapolis, Ind."

(b) Tariffs must not be sent for filing in duplicate.

(c) Transmittal advices must not accompany tariffs forwarded for filing.

(d) All tariffs, supplements or amendments to tariffs, ruling circulars, billing instructions, or other advices, which are intended for filing and preservation in this Department must bear "I. R. C." consecutive numbers, commencing with "one" (1), and each carrier may adopt such serial prefix, if any, as it desires. Numbers to be on face of tariff and to be conspicuous.

(e) Interstate tariffs which do not carry intrastate rates must not be forwarded, and will not be filed, unless they are especially requested by the Commission.

ancellation  
rior circulars.

ddressing  
tariffs to Com-  
mission for  
filing

ot to be sent  
duplicate.  
o transmittal  
devices. All  
tariffs and sup-  
plements must  
ear I. R. C.  
umbers.

erial prefix.

ind of tariffs  
be filed



(f) If any tariff, or supplement to any tariff, offered for filing, refers to or becomes a part of any former tariff, or supplement, which has not been filed with the Commission, such tariff or supplement so offered for filing will not be received or filed until the preceding tariff or supplement to which it refers, or of which it becomes a part, has been filed with the Commission.

All supplement to tariffs must be filed, whether interstate or not.

3. As this Department at once removes from its files all tariffs as soon as canceled, therefore, the revocation by the carrier of a tariff canceling a previous issue will be held to not revive the previous issue, and that it can only be made effective by reissue.

Canceled tariffs to be revived must be reissued.

4. As the Commission is charged with the supervision of rates and has authority to initiate proceedings concerning the same; therefore, the Commission indicates that it shall feel that it is incumbent upon it to require any carriers filing tariffs of joint rates, which are in excess of the locals between the same points, to explain and show cause why any such rates should be filed and observed.

When through rates exceed sum of locals.

5. Any tariff which carries rates which are less for long than for short hauls, as prohibited in the Act herein referred to, will not be filed unless permission to make such charges has been previously obtained from the Commission. Any tariff containing any such prohibited rates, if discovered after filing, will be removed from the files and returned to the carriers, without previous notice of intention so to do.

Long and short haul.

6. Concurrence may be given by any carrier to embrace all tariffs, schedules and classifications now issued and on file with the Commission, or which may hereafter be issued and filed with the Commission, applicable on intrastate traffic, by another carrier, or its duly constituted agent, in which the concurring carrier is shown as a participating line. This concurrence may be filed separately as to each line, or one concurrence may be filed for all lines in this State, in which latter case the lines must all be named individually in the concurrence. Upon the filing of any such concurrence, the Commission will consider all tariffs, schedules and classifications effective when filed in which the concurring carrier is named as a participating line, until notice of total or partial non-concurrence is filed with the Commission by the non-concurring line, and in such case the tariff schedule or classification non-concurred in will cease to be effective ten (10) days after the filing of notice of non-concurrence, or revocation, and copy of any such non-concurrence or revocation must at the same time be furnished by the non-concurring line to the carrier issuing the tariff, schedule or classification.

Concurrences.

This regulation shall not apply except to the tariffs, schedules or classifications issued by the carrier originating the traffic upon which the same applies.

If any carrier subject hereto does not desire to concur in tariffs and schedules issued by other lines in this State in the manner above indicated, then individual concurrences from connecting lines shown as participating lines as to all tariffs, schedules, etc., now issued, or which may be hereafter issued, and filed, applicable to intrastate traffic, must be procured and filed with the Commission.

All joint tariffs or schedules filed with the Commission must be accompanied by a letter of advice to the effect that tariff it accompanies is concurred in by all carriers named therein as participants, under con-

currences on file with the Commission, naming any exceptions, and supplying any concurrences required by such exceptions, in form prescribed by Interstate Commerce Commission.

Agent may give concurrence.

Conferring authority upon agent to give concurrences in accordance with the provisions of Paragraph 6 hereof, will be governed by the provisions of I. C. C. Tariff Circular No. 14-A.

Concurrence, non-concurrence, advice letter forms must be on paper 8 by 10½ inches in size, as required by the Interstate Commerce Commission. (I. C. C. Tariff Cir. No. 14-A.)

Specific concurrence filed with tariff.

Specific or special concurrence must be filed with tariff by carrier or agent filing same.

The forms for giving concurrences and non-concurrences in accordance with Paragraph 6 hereof shall as nearly as possible conform to the forms used for the filing of concurrences and non-concurrences with the Interstate Commerce Commission, and shall be numbered consecutively with I. R. C. numbers, with the following prefix for each:

Form numbers.	General concurrence (as to all carriers in State).....	FI 2
	General concurrence (as to individual carrier).....	FI 3
	Specific concurrence (as to rate or territory).....	FI 4
	General non-concurrence (as to all carriers in State).....	FI 5
	General non-concurrence (as to individual carrier).....	FI 6
	Specific non-concurrence (as to rate or territory).....	FI 7

Committee, Association or Compiler's tariffs, etc.

7. No classification, exceptions to classifications, publications, rulings, tariffs, or rates, promulgated by any classification committee, tariff committee, traffic committee or association, or compiler will be received by the Commission from them, or filed as such. If any carrier or carriers, subject to the Act, adopt or desire to observe or apply any such issues or publications, the same must be filed by it, or them, and the first page thereof must so indicate by proper application, the same as any other tariff, bearing proper designations and numbers.

Joint Agent to issue and file tariffs.

When, however, any such classification, exceptions to classification, publications, rulings, tariffs, schedules or rates, promulgated by any classification committee, tariff committee, traffic committee or association, shows upon its face that it is issued by such committee or association as the agent for any of the carriers named therein, then the same may be filed with the Commission by such committee or association, and will be considered as the act of the carriers named for whom the agent act: Provided, the carrier so named will file with the Commission certified copy of the appointment and authority of the agent which it may have in its possession or which may be in the possession of the Interstate Commerce Commission, and that such classifications, exceptions to classifications, publications, rulings, tariffs or schedules shall bear consecutive I. R. C. numbers, commencing with 1, with prefix to be assigned by the Commission upon application in writing to it by such agent, and that the rates, rules and regulations in such agent's tariffs must be properly referred to in the proper tariffs of the carrier for whom such agent acts.

I. R. C. prefix letter.

Advice letter.

To avoid encumbering the files of the Commission, such agent will file with the Commission one copy of all such tariffs, amendments or supplements thereto, and each carrier will file with the Commission an advice on

paper 8 by 10½ inches in size, giving reference to rates, etc., in such agent's tariffs and date effective on such carrier's line. Such form shall be numbered consecutively, commencing with 1, with prefix FI 8.

The form of power of attorney given to such agent shall be on paper 8 by 10½ inches in size, numbered consecutively commencing with 1, with prefix FI 1.

Power of attorney.

8. The receipt of tariffs for filing will be acknowledged by the Department of Tariffs at least once each week. At the request of a carrier acknowledgment will be made at once by wire at the carrier's expense, or by mail.

Receipt of tariffs to be acknowledged weekly.

9. Effective June 9th, 1907, application for permission to reduce effective rates in less than ten days must be made in writing.

Reduction of rate in less than 10 days.

10. Effective June 9th, 1907, applications to publish new rates effective in less than two days can be made by wire, substantially as follows:

Application to put in new rates less than 2 days.

(Example.)

"Chicago, Ill., July 5, 1907.

"Railroad Commission of Indiana, Indianapolis, Ind.:

"Permit rate 60 cents on coal, Linton to Muncie, via Westport and Big Four; effective July 5, 1907, for 60 days.

"H. P. RADLEY, G. F. A.,

"Southern Indiana Railway Co."

The commission will grant or deny the application at once and wire answer at carrier's expense. If permission is granted, tariff must be issued and filed within five days and have attached thereto a copy of each of the above-mentioned telegrams.

11. No tariff will be received or filed which is effective for less than thirty (30) days, or which applies for the benefit or use of any named person or corporation, except as hereinafter provided.

No tariff can be issued for less than 30 days, etc.

12. The provisions of Tariff Circular No. 14-A, issued by the Interstate Commerce Commission, are hereby adopted and will be held as requirements in the preparation and filing of tariffs with this Commission, excepting that tariffs of five pages or less may have supplements, not exceeding two, as in such circular provided.

I. C. C. Regs. to govern form of tariffs and supp.

13. Billing orders, telegraphic authority to local agents to make rates, or promises to protect rates not duly issued and published, will be held to be in violation of law, except as provided in paragraph 10 hereof and in execution of the permission granted by the Commission as provided in such paragraph.

Billing orders, etc., illegal.

14. Tariffs need only be filed in depots where they are effective; i. e. at the point of origin and destination.

Filing tariffs at points of origin and destination.

15. Rates and charges for the transportation of circuses and other show outfits, such as individual or private show cars, stopping at various points in transit over the line of movement, may be published and put into effect after being filed with the Commission one day before same become effective. In case trackage charge is made on individual or private show cars while making a "stand," the rates and charges published and filed must indicate what such trackage charge is and the length of time such a car will be permitted to remain on siding without trackage charge being made.

Circus and private show car tariffs.

Cancellation  
notice must  
show where  
rates will there-  
after be found.

16. If a tariff is canceled with the purpose of applying in lieu thereof the rates shown in some other tariff, the cancellation notice shall make specific reference to the I. R. C. number of tariff in which such rates will thereafter be found.

Certification of  
Commission  
files.

17. Effective June 9, 1907, all tariffs, schedules, classifications, etc., then on file in the Department of Tariffs of the Railroad Commission of Indiana, must be certified to by each Railroad and Traction Company filing the same to the effect that the same have been filed in accordance with the requirements of Section 9, Chap. 241, of the Acts of Indiana, 1907, the following form on paper 8 by 10½ inches in size to be used therefor:

June 9, 1907.

Form of certifi-  
cate.

"I hereby certify that I am the ..... of the .....  
Rail..... Company, and as such have charge of the filing with the Rail-  
road Commission of Indiana of all schedules, rules and regulations for the  
transportation of property by said Company within the State of Indiana,  
as required by Section 9 of the Act approved March 9, 1907, and that all  
the provisions of said Act have been complied with, and that all such  
schedules, rules and regulations effective on such Railroad in said State  
are now on file with such Commission, the last filing thereof being desig-  
nated as ..... No. .... and I. R. C. No. ....

"....."

"....."

"(Official Character.)"

New rates.

18. Any carrier or carriers subject hereto desiring to publish a rate on any article on a basis lower than the current classification and class rate, such lower rating may be made effective by publication in a proper tariff two days after the filing of such tariff with the Commission, and such rate will be deemed to be a new rate.

New rates.

Through rates.

19. Through rates, equal to or lower than the combination of local rates between any two points within the State may be established by publishing such through rate in a proper tariff, to become effective two days after filing with the Commission, and such through rate will be deemed a new rate.

Notation of  
'new rate' on  
tariff.

20. All tariffs published and filed with the Commission establishing "new rates" pursuant to the authority granted by paragraphs 18 and 19 hereof, shall bear in a conspicuous place upon the title page of such tariff the notation "new rate" or "new rates," as the case may be.

By order of the Commission.

L. E. MORTON, Clerk.  
Railroad Commission of Indiana.

Supp. No. 2 to DT Cir. No. A-1.  
Supersedes Supp. 1 and includes all changes.

# RAILROAD COMMISSION OF INDIANA.

UNION B. HUNT, Chairman.  
WM. J. WOOD } Commissioners.  
C. V. McADAMS }  
CHAS. B. RILEY, Secretary.  
L. E. MORTON, Clerk.

DEPARTMENT OF TARIFFS,  
L. E. MORTON, Clerk.

Supplement No. 2 to  
DEPARTMENT OF TARIFFS.

Circular No. A-1.

(Supersedes Supplement No. 1 and includes all changes.)

## RULES AND REGULATIONS GOVERNING THE CONSTRUCTION AND FILING OF FREIGHT TARIFFS AND CLASSIFICATIONS.

Indianapolis, Ind., Nov. 10, 1907.

1. Effective July 27, 1907, subdivision (c) of Paragraph 2 of Department of Tariffs Circular No. A-1, will be canceled and withdrawn, and in lieu thereof the following regulation will govern:

(c) Transmittal advices in duplicate must accompany all tariffs, amendments or supplements thereto, affording the following information and description of tariffs, amendments or supplements thereto, forwarded for filing:

Description of Tariff;

Supplement Number;

I. R. C. Number;

G. F. D. or I. C. C. Number (G. F. D. number preferred);

Date tariff or supplement becomes effective.

2. Refer to sub-paragraph of Paragraph 7 of said Circular No. A-1, reading as follows:

"To avoid encumbering the files of the Commission, such agent will file with the Commission one copy of all such tariffs, amendments or supplements thereto, and each carrier will file with the Commission an advice on paper 8 by 10½ inches in size, giving reference to rates, etc., in such agent's tariffs, and date effective on such carrier's line. Such form shall be numbered consecutively, commencing with I, with prefix FI-8,"

And amend same to read:

"To avoid encumbering the files of the Commission, such agent will file with the Commission such tariffs, amendments or supplements thereto, in the same manner in which tariffs are filed by the carriers."

3. Refer to Paragraph 14 of said Circular, now reading as follows:

"Tariffs need only be filed in depots where they are effective, i. e., at the point of origin and destination,"

And amend same to read as follows:

"14. Tariffs need only be filed in the offices of agents in stations or depots at such points of origin as are affected by such tariffs."

4. Refer to said DT Circular No. A-1, and ADD thereto the following:

21. All tariffs, amendments or supplements thereto, which carry re-issues of existing rates, insofar as such re-issued rates are concerned, may be made effective in two (2) days after filing with the Commission.

22. On and after December 1, 1907, all tariffs filed with the Commission must be, as to size, form and quality of paper upon which same are printed, in strict conformity with the requirements of Interstate Commerce Commission Tariff Circular I. C. C. 14-A.

23. On and after December 1, 1907, all commodity tariffs naming specific rates between points in the State of Indiana must bear upon the title page thereof a provision to the effect that agents are strictly prohibited from quoting or using a higher rate for a shorter than for a longer distance over the same line in the same direction, the shorter distance being entirely included within the longer distance, and in the absence of specific commodity rates, duly filed with the Commission, the rates shown in such commodity tariffs shall be the "maxima" to all points directly intermediate; and that on or before said date all commodity tariffs carrying specific rates, then on file with the Commission, must be supplemented, amended or revised to so provide.

By order of the Commission.

L. E. MORTON, Clerk,  
Railroad Commission of Indiana.

DT Circular No. B-1 cancels all  
Tariff Circulars issued by the De-  
partment of Tariffs, and includes all  
Rules and Regulations concerning  
construction and filing of Passenger  
Tariffs.

#### RAILROAD COMMISSION OF INDIANA.

UNION B. HUNT, Chairman.  
WM. J. WOOD } Commissioners.  
C. V. McADAMS }  
CHAS. B. RILEY, Secretary.  
L. E. MORTON, Clerk.

DEPARTMENT OF TARIFFS,  
L. E. MORTON, Clerk.

DEPARTMENT OF TARIFFS.  
Circular No. B-1.

#### RULES AND REGULATIONS GOVERNING THE CONSTRUCTION AND FILING OF PASSENGER TARIFFS.

Indianapolis, July 5, 1907.

Refer to Department of Tariffs Circulars Nos. 1, 2, 3, 4, 5 and 6 and cancel same and be advised that this Circular contains all rules and regulations promulgated to date by the Railroad Commission of Indiana governing the construction and filing of passenger tariffs, and that from and after said 5th day of July, 1907, all rules and regulations governing the construction and filing of passenger tariffs will be promulgated in Department of Tariffs Circulars numbered consecutively herewith, bearing the prefix "B."

Cancellation  
prior circulars.

1. Section 9 of the Act, approved March 9, 1907, which regulates the issuing, publication and filing of tariffs, became effective on June 9, 1907, unless for cause the time has been extended by the Commission. After that time it became unlawful for any carrier subject to the Act to perform any service without having first published and filed a tariff therefor, as required by the Act.

2. Effective June 9, 1907.

(a) All tariffs or schedules forwarded for filing with the Commission must be addressed to—

“L. E. Morton, Clerk,  
Dept. of Tariffs, Railroad Commission of Ind.,  
Indianapolis, Ind.”

Addressing  
tariffs to Com-  
mission for  
filing.

(b) Tariffs must not be sent for filing in duplicate.

Not to be sent  
in duplicate.  
No transmittal  
advices.

(c) Transmittal advices must not accompany tariffs forwarded for filing.

(d) All tariffs, supplements or amendments to tariffs, ruling circulars, billing instructions, or other advices, which are intended for filing and preservation in this Department, must bear “I. R. C.” consecutive numbers, commencing with “one” (1), and each carrier may adopt such serial prefix, if any, as it desires. Numbers to be on face of tariff and to be conspicuous.

All tariffs and  
supplements  
must bear  
I. R. C.  
numbers.

(e) Interstate tariffs which do not carry intrastate fares must not be forwarded, and will not be filed, unless they are specially requested by the Commission.

Serial prefix.

(f) If any tariff, or supplement to any tariff, offered for filing, refers to or becomes a part of any former tariff, or supplement, which has not been filed with the Commission, such tariff or supplement so offered for filing will not be received or filed until the preceding tariff or supplement to which it refers, or of which it becomes a part, has been filed with the Commission.

Kind of tariffs  
to be filed.

All supplements  
to a tariff must  
be filed whether  
interstate or  
not

3. As this Department at once removes from its files all tariffs as soon as canceled, therefore, the revocation by the carrier of a tariff canceling a previous issue will be held to not revive the previous issue, and that it can only be made effective by reissue.

Canceled tariffs  
to be revived  
must be re-  
issued.

4. As the Commission is charged with the supervision of fares and has authority to initiate proceedings concerning the same, therefore, the Commission indicates that it shall feel that it is incumbent upon it to require any carriers filing tariffs of joint fares, which are in excess of the locals between the same points, to explain and show cause why any such fares should be filed and observed.

When through  
fares exceed  
sum of locals.

5. Any tariff which carries fares which are less for long than for short hauls, as prohibited in the Act herein referred to, will not be filed unless permission to make such charges has been previously obtained from the Commission. Any tariff containing any such prohibited fares, if discovered after filing, will be removed from the files and returned to the carriers, without previous notice of intention so to do.

Long and short  
haul.

6. Concurrence may be given by any carrier to embrace all tariffs now issued and on file with the Commission, or which may be hereafter issued and filed with the Commission, applicable on intrastate traffic, by another carrier, or its duly constituted agent, in which the concurring carrier is shown as a participating line. This concurrence may be filed

Concurrence.

separately as to each line, or one concurrence for all lines in the State, in which latter case the lines must be named individually in the concurrence. Upon the filing of any such concurrence, the Commission will consider all tariffs effective when filed in which the concurring carrier is named as a participating line until notice of total or partial non-concurrence is filed with the Commission by the non-concurring lines, and in such case the tariff non-concurred in will cease to be effective ten (10) days after the filing of notice of non-concurrence or revocation, and copy of any such non-concurrence or revocation must at the same time be furnished by the non-concurring line to the carrier issuing the tariff.

This regulation shall not apply except to the tariffs issued by the carrier originating the tariff upon which the same applies.

If any carrier subject hereto does not desire to concur in tariffs and schedules issued by other lines in this State in the manner above indicated, then individual concurrences from connecting lines shown as participating lines as to all tariffs now issued, or which may be hereafter issued, and filed, applicable to intrastate traffic, must be procured and filed with the Commission.

All joint tariffs filed with the Commission must be accompanied by a letter of advice to the effect that tariff it accompanies is concurred in by all carriers named therein as participants, under concurrences on file with the Commission, naming any exceptions, and supplying any concurrences required by such exceptions, in form prescribed by Interstate Commerce Commission.

Conferring authority upon agent to give concurrences and authorizations will be governed by provisions of I. C. C. Circular 14-A.

Agent may give concurrence.

Concurrence, non-concurrence, advice letter forms must be on paper 8 by 10½ inches in size, as required by the Interstate Commerce Commission.

Specific concurrence filed with tariff.

Specific or special concurrence must be filed with tariff by carrier or agent filing the same.

The forms for giving concurrences and non-concurrences in accordance with Paragraph 1a hereof shall as nearly as possible conform to the forms used for filing concurrences and non-concurrences with the Interstate Commerce Commission, and shall be numbered consecutively with F. R. C. numbers, with the following prefix for each:

Form numbers.

- General concurrence (as to all carriers in State) PI 2
- General concurrence (as to individual carriers) PI 3
- Specific concurrence (as to rate or territory) PI 4
- General non-concurrence (as to all carriers in State) PI 5
- General non-concurrence (as to individual carriers) PI 6
- Specific non-concurrence (as to rate or territory) PI 7

Committee, association or compilers' tariffs.

7. No classification, exceptions to classifications, publications, rulings, tariffs, or fares, promulgated by any classification committee, tariff committee, traffic committee or association, or compiler, will be received by the Commission from them, or filed as such. If any carrier or carriers, subject to the Act, adopt or desire to observe or apply any such issues or publications, the same must be filed by it, or them, and the first page thereof must so indicate by proper application, the same as any other tariff, bearing proper designations and numbers.



When, however, any such tariff or schedule promulgated by any tariff or traffic committee or association, shows upon its face that it is issued by such committee or association as the agent for any of the carriers named therein, then the same may be filed with the Commission by such committee or association, and will be considered as the act of the carriers named for whom the agent acts; Provided, The carrier so named will file with the Commission certified copy of the appointment and authority of the agent which it may have in its possession or which may be in the possession of the Interstate Commerce Commission, and that such tariffs or schedules shall bear consecutive I. R. C. numbers, commencing with 1, with prefix to be assigned by the Commission upon application in writing to it by such agent; and that the fares, rules and regulations in such agent's tariffs must be properly referred to in the proper tariffs of the carrier for whom said agent acts.

Joint agent to issue and file tariffs.

I. R. C. prefix.

To avoid encumbering the files of the Commission, such agent will file with the Commission one copy of all such tariffs, amendments or supplements thereto, and each carrier will file with the Commission an advice on paper 8 by 10½ inches in size, giving reference to fares in such agent's tariffs and date effective on such carrier's line. Such form shall be numbered consecutively commencing with 1, with prefix PI 8.

Advice letter.

The form of power of attorney given to such agent shall be on paper 8 by 10½ inches in size, numbered consecutively commencing with 1, with prefix PT 1.

8. The receipt of tariffs for filing will be acknowledged by the Department of Tariffs at least once each week. At the request of a carrier acknowledgment will be made at once by wire at the carrier's expense, or by mail.

Receipt of tariffs to be acknowledged weekly.

9. Effective June 9th, 1907, application for permission to reduce effective fares in less than ten days must be made in writing.

Reduction of fare in less than 10 days.

10. Effective June 9th, 1907, applications to publish new fares effective in less than two days can be made by wire, substantially as follows:

Application to put in new fare in less than 2 days.

(Example)

"Chicago, Ill., July 3, 1907.

"Railroad Commission of Indiana, Indianapolis, Ind.:

"Permit fare 60 cents Linton to Terre Haute account ..... effective July 5, 1907, for 60 days.

Example.

"H. F. RADLEY, G. P. A.,

"Southern Indiana Railway Co."

The Commission will grant or deny the application at once and wire answer at carrier's expense. If permission is granted, tariff must be issued and filed within five days and have attached thereto copy of each of the above-mentioned telegrams.

11. No tariff will be received or filed which is effective for less than thirty (30) days, or which applies for the benefit or use of any named person or corporation; except that rates of fare for an excursion or excursions limited to a designated period of not more than 30 days may be established without further notice upon posting a tariff one day in advance

No tariff can be issued for less than 30 days. Excursion tariffs.

in two public and conspicuous places in the waiting room of each station where tickets for such excursion or excursions are offered for sale, and by mailing one copy thereof to the Commission; the notice or tariff so posted and mailed to show the points between which the excursion fares will apply, showing fares to be charged therefor and terms upon which tickets will be sold.

I. C. C. Regs.  
to govern form  
of tariffs  
and supps.

12. The provisions of Tariff Circular No. 14-A issued by the Interstate Commerce Commission, are hereby adopted and will be held as requirements in the preparation and filing of tariffs with this Commission, unless otherwise provided by this Commission.

Illegal fares.

13. Instructions or telegraphic authority to local agents to make fares, or promises to protect fares not duly issued and published, will be held to be in violation of law, except as provided in paragraph 10 hereof, and in execution of the permission granted by the Commission as provided in such paragraph.

14. Tariffs need only be filed in depots where they are effective; i. e., at the point of origin and destination.

Circus and  
private show  
car tariffs

15. Rates and charges for the transportation of circuses and other show outfits, such as individual or private show cars, stopping at various points in transit over the line of movement, may be published and put into effect after being filed with the Commission one day before same become effective. In case trackage charge is made on individual or private show cars while making a "stand," the rates and charges published and filed with the Commission must indicate what trackage charge is made, and the length of time such a car will be permitted to remain on siding without trackage charge being made.

Cancellation  
notice must  
show where  
fares will  
thereafter be  
found.

16. If a tariff is canceled with the purpose of applying in lieu thereof the rates or fares shown in some other tariff, the cancellation notice shall make specific reference to the I. R. C. number of tariff in which such rates or fares will thereafter be found.

Certification of  
Commission  
files.

17. Effective June 9, 1907, all tariffs, schedules, etc., then on file in the Department of Tariffs of the Railroad Commission of Indiana must be certified to by each Railroad and Traction Company filing the same, to the effect that the same have been filed in accordance with the requirements of Section 9, Chapter 241 of the Acts of Indiana, 1907, the following form on paper 8 by 10½ inches in size to be used therefor:

Form of certi-  
ficate.

".....June 9, 1907.

"I hereby certify that I am the.....of the.....  
Rail..... Company, and as such have charge of the filing with the Rail-  
road Commission of Indiana of all schedules, rules and regulations for the  
transportation of persons and property by said Company within the State  
of Indiana, as required by Section 9 of the Act approved March 9, 1907,  
and that all the provisions of said Act have been complied with, and that all  
such schedules, rules and regulations effective on passenger traffic on such  
Railroad in said State are now on file with such Commission, the last filing  
thereof being designated as No..... and I. R. C. No.....

".....

"(Official character.)"

18. Through fares, equal to or lower than the combination of local fares between any two points within the State may be established by publishing such through fare in a proper tariff to become effective two days after filing with the Commission, and such through fare will be deemed a new fare. New fares.  
Through fares.

19. All tariffs published and filed with the Commission establishing "new fares" pursuant to the authority granted by paragraph 18 hereof shall bear in a conspicuous place upon the title page of such tariff the notation "new fare" or "new fares," as the case may be. Notation of  
"new fare" on  
tariff.

By order of the Commission.

L. E. MORTON, Clerk,  
Railroad Commission of Indiana.

Supp. No. 2 to DT Cir. No. B-1.  
Supersedes Supp. 1 and includes all changes.

#### RAILROAD COMMISSION OF INDIANA.

UNION B. HUNT, Chairman.  
WM. J. WOOD }  
C. V. McADAMS } Commissioners.  
CHAS. B. RILEY, Secretary.  
L. E. MORTON, Clerk.

DEPARTMENT OF TARIFFS.  
L. E. MORTON, Clerk.

Supplement No. 2 to

DEPARTMENT OF TARIFFS.

Circular No. B-1.

(Supersedes Supplement No. 1 and includes all changes.)

#### RULES AND REGULATIONS GOVERNING THE CONSTRUCTION AND FILING OF PAS- SENGER TARIFFS.

Indianapolis, Ind., Nov. 10, 1907.

1. Effective July 27, 1907, subdivision (c), Paragraph 2, of Department of Tariffs Circular No. B-1, will be canceled and withdrawn, and in lieu thereof the following regulation will govern:

(c) Transmittal advices in duplicate must accompany all tariffs, amendments or supplements thereto, affording the following information and description of tariffs, amendments or supplements thereto forwarded for filing:

Description of Tariffs;

Supplement Number;

I. R. C. Number;

G. P. D. or I. C. C. Number (G. P. D. Number preferred);

Date tariff or supplement became effective.

2. Refer to Paragraph 4 of said Circular, subdivision (d), line 1, and eliminate the words, "billing instructions."

3. Refer to Paragraph 7 of said Circular, line 1, and eliminate the words, "exceptions to classifications," and refer to the same paragraph, line 2, and eliminate the words, "classification committee."

4. Refer to sub-paragraph of Paragraph 7 of said Circular No. B-1, reading as follows:

"To avoid encumbering the files of the Commission, such agent will file with the Commission one copy of all such tariffs, amendments or supplements thereto, and each carrier will file with the Commission an advice on paper 8 by 10½ inches in size, giving reference to rates, etc., in such agent's tariffs, and date effective on such carrier's line. Such form shall be numbered consecutively, commencing with I, with prefix F1-8,"

And amend same to read:

"To avoid encumbering the files of the Commission, such agent will file with the Commission such tariffs, amendments or supplements thereto, in the same manner in which tariffs are filed by the carriers."

5. Refer to Paragraph 14 of said Circular, reading as follows:

"Tariffs need only be filed in depots where they are effective; i. e., at the point of origin and destination,"

And amend same to read:

"Tariffs need only be filed in offices of agents in depots at such points of origin as are affected by such tariffs."

6. Refer to said Circular and ADD the following:

"20. All tariffs, supplements or amendments thereto, which reissue existing fares, insofar as such reissued fares are concerned, may be made effective in 1 day after filing with the Commission."

By order of the Commission.

L. E. MORTON, Clerk,  
Railroad Commission of Indiana.

## CONFERENCE WITH REPRESENTATIVES OF CARRIERS RELATIVE TO THE CONSTRUCTION AND FILING OF FREIGHT TARIFFS.

Subject to call issued under direction of the Commission, a conference was held in the Department of Tariffs on October 1, 1907, for the purpose of considering the following matters:

Failures to comply with Commission's requirements governing the filing of freight tariffs;

Manner of showing effective dates; reissued items; cancellations of I. R. C. numbers;

Tariffs not filed in time; reissue of same; supplements thereto;

Failures to show I. R. C. numbers;

Tariffs carrying rates for individuals or corporations; switching tariffs;

Time within which tariffs become effective by law;

Absorption of switching tariffs;

Proportional rates; billing thereunder;

Classifications in effect in Indiana; exceptions thereto; and matters connected therewith.

Representatives from the freight traffic departments of the following carriers were present:

Cleveland, Cincinnati, Chicago & St. Louis Ry. Co.;  
 Lake Erie & Western R. R. Co.;  
 Lake Shore & Michigan Southern Ry. Co.;  
 Michigan Central R. R. Co.;  
 Chicago, Indiana & Southern R. R. Co.;  
 Indiana Harbor Belt R. R. Co.;  
 Pittsburg, Cincinnati, Chicago & St. Louis Ry. Co.;  
 Penna. Co. (P., F. W. & C. Ry. Co.);  
 Grand Rapids & Indiana Ry. Co.;  
 Vandalia Railroad Company;  
 Chicago, Indiana & Eastern R. R. Co.;  
 Evansville & Terre Haute R. R. Co.;  
 Chicago, Indianapolis & Louisville Ry. Co.;  
 Wabash R. R. Co.;  
 Illinois Central Railroad Company;  
 Indianapolis Southern R. R. Co.;  
 Baltimore & Ohio R. R. Co.;  
 Baltimore & Ohio Southwestern R. R. Co.;  
 Cincinnati, Hamilton & Dayton Ry. Co.;  
 Southern Railway Company;  
 Chicago & Erie R. R. Co.;  
 Toledo, St. Louis & Western R. R. Co.;  
 New York, Chicago & St. Louis R. R. Co.;  
 Chicago, Cincinnati & Louisville R. R. Co.;  
 Central Indiana Ry. Co.;  
 Grand Trunk Western R. R. Co.;  
 Louisville & Nashville R. R. Co.;  
 Pere Marquette R. R. Co.;  
 Elgin, Joliet & Eastern Ry. Co.;  
 Chicago, Lake Shore & Eastern Ry. Co.;  
 New Jersey, Indiana & Illinois R. R. Co.

Each of the above named subjects was discussed, discrepancies pointed out, and careful consideration had of each of the rules of the Commission governing the construction and filing of freight tariffs. It was the expressed sentiment of all the representatives present that the rules were proper and fair ones, and that it was the intention and purpose of each of the carriers to comply strictly therewith. The carriers were notified at the time that in the future strict adherence to such rules would be enforced by the Com-

mission. The improvement in the matters considered at the conference which has resulted from this conference has been gratifying, indeed. And I take pleasure in reporting to you that at all times I have met with a disposition on the part of the carriers to meet the wishes of the Commission in all matters pertaining to the construction and filing of tariffs.

#### CONFERENCE WITH REPRESENTATIVES OF CARRIERS RELATIVE TO THE CONSTRUCTION AND FILING OF PASSENGER TARIFFS.

Pursuant to call issued under direction of the Commission, a conference was held in the Department of Tariffs on October 2, 1907, for the purpose of considering the following matters:

Failures to comply with Commission's requirements governing the filing of passenger tariffs;  
Manner of showing effective dates; reissued items; cancellations of I. R. C. numbers; showing I. R. C. numbers on tariffs and supplements;  
Uniformity in form of State passenger tariffs;  
Tariffs not filed in time; reissue of same;  
Circus, show and excursion tariffs;  
Continuity of I. R. C. numbers;  
Joint fares; combination of locals;  
Parlor car fares; sleeping car rates;  
Joint agent's tariffs;  
Concurrences, and matters connected therewith.

Representatives from the passenger traffic departments of the following carriers attended the conference:

Cleveland, Cincinnati, Chicago & St. Louis Ry. Co.;  
Lake Erie & Western R. R. Co.;  
Lake Shore & Michigan Southern Ry. Co.;  
Chicago, Indiana & Southern R. R. Co.;  
Pittsburg, Ft. Wayne & Chicago Ry. Co. (Penna. Co.);  
Pittsburg, Cincinnati, Chicago & St. Louis Ry. Co.;  
Grand Rapids & Indiana Ry. Co.;  
Vandalia Railroad Company;  
Chicago, Indiana & Eastern R. R. Co.;  
Chicago & Eastern Illinois R. R. Co.;  
Evansville & Terre Haute R. R. Co.;

Chicago, Indianapolis & Louisville R. R. Co.;  
 Wabash Railroad Co.;  
 Indianapolis Southern R. R. Co.;  
 Illinois Central R. R. Co.;  
 Baltimore & Ohio R. R. Co.;  
 Baltimore & Ohio Southwestern R. R. Co.;  
 Indianapolis Southern R. R. Co.;  
 Cincinnati, Hamilton & Dayton Ry. Co.;  
 Chicago & Erie R. R. Co.;  
 Toledo, St. Louis & Western R. R. Co.;  
 New York, Chicago & St. Louis R. R. Co.;  
 Chicago, Cincinnati & Louisville R. R. Co.;  
 Central Indiana Ry. Co.;  
 Louisville & Nashville R. R. Co.;  
 Cincinnati, Bluffton & Chicago R. R. Co.;  
 Indianapolis Union Ry. Co.;  
 New Jersey, Indiana & Illinois R. R. Co.;  
 Terre Haute, Indianapolis & Eastern Trac. Co.;  
 Ohio Electric Ry. Co.;  
 Indianapolis & Cincinnati Trac. Co.;  
 Indianapolis, Crawfordsville & Western Trac. Co.;  
 St. Joseph Valley Railway Company;  
 Ft. Wayne & Wabash Valley Traction Co.;  
 Toledo & Chicago Traction Co.;  
 Winona Interurban Ry. Co.;  
 Chicago, South Bend & Northern Ind. Trac. Co.;  
 Kokomo, Marion & Western Traction Co.;  
 Louisville & Northern Indiana Ry. & Ltg. Co.;  
 Indianapolis & Louisville Traction Co.;  
 Indianapolis, Columbus & Southern Traction Co.

Each of the above mentioned subjects was considered, together with the rules of the Commission governing the filing of tariffs. The expressed sentiment of the carriers was that such rules were proper and fair ones, and the representatives present announced their intention of complying therewith. Notice was given at the time that strict adherence to such rules in the future would be enforced by the Commission.

A committee of traction line representatives, together with a passenger traffic representative of a steam railroad, was appointed, with Mr. F. D. Norveil, G. P. A., of the Indiana Union Traction Company, as chairman, for the purpose of formulating a uniform form of tariff for carrying State passenger fares upon traction

lines. A form of tariff has been effected by that committee, and it has been announced that all of the traction lines within the State will adopt this form of tariff.

The result of this conference has been to practically eliminate the errors and discrepancies which had occurred theretofore.

#### GENERAL ORDER WITH REFERENCE TO THE SUPERVISION OF TARIFFS.

On the 20th day of September, 1907, the following general order of the Commission was made upon this department:

Whereas, It is the duty of the Commission to supervise all railroad freight and passenger tariffs and rates; and

Whereas, Such tariffs, classifications and schedules are now on file in the Department of Tariffs of this Commission;

It is Now Ordered, That the Clerk of said Commission in charge of the Department of Tariffs shall scrutinize and examine all tariffs, classifications and schedules now on file or which may be hereafter filed, and report in writing to the Commission from time to time:

1st: Any rate between points in this State, which seems to be unreasonably high or excessive;

2d: Any rate between points in this State, which unduly discriminates as against any point or locality in this State;

3d: Any interstate rate which is unfair or unreasonable so far as it affects any shipper or shippers in this State.

And it is Further Ordered, That said written reports shall be considered by the Commission and taken up informally in the first instance with the carriers, to the end that proper corrections may be made; and if such corrections are not so made, this Commission shall take such other steps as it may deem best to have said errors corrected.

It is Further Ordered, That a copy of this order shall be mailed to the carriers, including express companies, doing business in this State.

#### DEPARTMENT REPORTS UNDER GENERAL ORDER WITH REFERENCE TO SUPERVISION OF TARIFFS.

Pursuant to such general order with reference to the supervision of tariffs, the following Department Reports have been made to the Commission:

Unlawful application by E. & T. H. Railroad Company of Official and Illinois Commissioners' classifications for rating of intrastate traffic in Indiana;

Failure to show upon coal tariffs, laying rates to Gas Belt points, domestic manufacturers' and steaming rates;



Discriminations by express companies in section D and E rates, per ounce, upon certain class matter;

Discrimination in rates on bar iron from Indianapolis to South Bend by C., C., C. & St. L. Ry. Co.; lower rates obtaining from Terre Haute and other points;

Excessive rates on lumber from Acton, Greencastle and other points to Indianapolis, via C., C., C. & St. L. Ry. Co.;

Proposed withdrawal by C., I & L Ry. Co. as participating or delivering line in Central Indiana Ry. joint log rates, without complying with non-concurrence rules of the Commission;

Discrimination in rates on company use crushed stone to Effner, Ind., by P., C., C. & St. L. Ry. Co.;

Failure of Indianapolis Southern R. R. Co., to file tariffs covering excursion fares from Indianapolis to points in Indiana during summer season of 1907.

#### APPLICATIONS FOR RATE ADJUSTMENTS, REDUCTIONS, AND APPROVAL OF REFUND CLAIMS

The following applications for adjustments and reductions in rates, approval of refunds, etc., have been filed and referred to this department, investigated and reports thereon made to the Commission, or are now in process of investigation:

1907.

May 14. Application by Brownstown Strawboard & Paper Co., of Brownstown, Ind., for through rate on coal to Brownstown from mines on Southern Indiana Ry., to reduce combination rate of 50 cents per ton.

May 21. Application by B. Johnson & Son, of Richmond, Ind., for reduction in rate on ties from Freetown to Terre Haute, Ind., via Southern Indiana Ry. Co. of 10 cents per 100 lbs. Taken up with Southern Ind. Ry. Co. Effective October 14, 1907, lumber rate of 8 cents per 100 lbs. made effective on railway ties, wooden, from Freetown to Terre Haute, via Southern Indiana Railway.

June 14. Application by T. J. Humé & Co., alleging overcharge on shipment of live stock from Rushville to Indianapolis; alleged violation of long and short haul clause in rate on live stock from Homer and Rushville to Indianapolis, via P., C., C. & St. L. Ry. Investigation developed that tariff rates were charged and that Rushville rate was made to meet short line rate via C., H. & D. Ry.

June 14. Application by McNown Mfg. Co., of Columbia City, Ind., for reduction in rate of 7 cents per cwt. on lumber from LaOtto to Columbia City, Ind., via Vandalia R., R. Investigated and taken up with Vandalia R. R. Co. and rate reduced to 4 cents per cwt., effective June 30, 1907.

- June 20.** Application by Greer Wilkinson Lumber Co. for reduction in rates on lumber from Michigan City, Ind., to South Bend, via L. E. & W. R. R. as initial line, account of alleged advance in lumber rates of from 20 per cent. to 30 per cent. Investigation made and applicant advised of existing joint tariff rates. On July 10, 1907, applicant dismissed complaint.
- June 28.** Application by United Fourth Vein Coal Company for publication of through rate from mines on Southern Indiana Railway to Gaston, Ind., on C., C. & L. R. R. Investigation made and submitted to S. I. Ry. Co., C., C., C. & St. L. Ry. Co., and C., C. & L. R. R. Co., and effective August 10, 1907, through rate of 95 cents per net ton on coal from mines on Southern Indiana Railway to Gaston, Ind., via Big Four Ry. and C., C. & L. R. R.
- July 16.** Application by Romona Oolitic Stone Co., of Indianapolis, Ind., for approval of refund on shipments of stone from Romona consigned to C., C., C. & St. L. Ry. Co., company use at Indianapolis, moved via Monon Ry., Greencastle and Big Four Ry. Agreement with applicant to receive Big Four Ry. Co.'s proportion of the through rate. Upon settlement applicant received 1 cent per 100 lbs. as Big Four Co.'s proportion of 7 cents through rate. Investigated as to car records and tariffs, and on November 8, 1907, found rate charged in accordance with tariffs and C., C., C. & St. L. Ry. Co.'s proportion of rate 1 cent per 100 lbs.
- Aug. 17.** Application by Jos. Goddard Co., of Muncie, Ind., alleging refusal by C., C., C. & St. L. Ry. Co. to pro rate with C., C. & L. R. R. Co. on traffic to points east and west of Losantville, Ind. Under investigation and still pending.
- Aug. 26.** Application by Bargersville Coal Co., Bargersville, Ind., for reduction in combination rate on coal of 55 cents per net ton from Cincinnati to Indianapolis, and 60 cents per ton from Indianapolis to Bargersville, seventeen miles from Indianapolis on the Indianapolis Southern Railroad. Investigation made. After conference with representatives of the coal traffic departments of the C., C., C. & St. L. Ry. Co., and Indianapolis Southern Railroad Company, said companies declined to reduce rate. Still pending.
- Oct. 7.** Application of H. P. Weisert for approval of refund on alleged overcharge on shipment of brick from Lafayette to Attica, Ind., via L. E. & W. and C. & E. I. railroads. Rate of 4 cents per cwt. charged; alleged rate to be 2 cents per cwt. Investigation made and 4-cent rate found to be in accordance with tariffs. 2-cent rate charged by Wabash in error, and claim made by Wabash to collect undercharge. December 5, 1907, Commission directed no further action be taken.
- Oct. 11.** Application by D. B. Wills, of Clayton, Ind., for approval of refund on cinders, C. L., from Indianapolis to Clayton, Indiana, via Vandalla R. R., sixth class rate having been charged. Investigated; developed that tariff rates in effect at time of movement charged. Commission declined to approve refund. Effective October 17, 1907, rate of 45 cents per net ton on cinders from Indianapolis to Clayton, Ind., published by Vandalla R. R. Co.

- Oct. 17. Application by Co-operative Construction Co., of Laporte, Ind., for reduction in through rate on coal of \$1.20 from mines on Vandalia Railroad (Linton Dist.), to Westville, Ind., via Vandalia line and Wabash Railroad. Offer by Vandalia and Wabash companies to publish joint rate of \$1.15 per ton to Westville. Still pending.
- Oct. 29. Application by Columbian Enameling and Stamping Co., of Terre Haute, for adjustment of rates on straw from Perrysville, Ind., to Terre Haute, via E. & T. H. R. R. Co. from 7 cents per cwt. to straw-board manufacturers' rate of 3.5 cents per cwt. Pending.
- Nov. 2. Application by Goodrich Bros., of Winchester, Ind., for approval of refund account alleged overcharge on shipment of coal from No. 8 mine on Vandalia Railroad, to Gaston, Ind., charged at \$1.65 per net ton. Investigation developed tariff rates charged. Commission declined to approve refund. Effective Nov. 2, 1907, C. & L. R. R. Co. put in local coal scale making rate from junction to Gaston 45 cents per net ton. Applicant so notified.
- Nov. 2. Application by Neher & Palmer, of Frankfort, Ind., for approval of refund on shipment of logs from Terhune to Frankfort, Ind., via Monon Ry. Investigation developed tariff rates charged. Commission declined to approve refund.
- Nov. 2. Application by W. E. Bushnell, of Evanston, Ill., for approval of refund account rate of 14 cents per cwt. on lumber from Royal Center, Ind., to Milford Junction, Ind., via P., C., C. & St. L. Ry. and C., C., C. & St. L. Ry. Co., account misrouting. Investigation developed an available route carrying rate of 12.5 cents per cwt. at time of movement. Conditional upon agent's error in routing, Commission directed approval of refund to basis of 12.5 cents per cwt. Applicant and P., C., C. & St. L. Ry. Co. so notified.
- Nov. 5. Application by Weil Bros. of Fort Wayne, Ind., for adjustment of rates on scrap iron from Fort Wayne to South Bend to basis of rate of \$1.15 per gross ton from South Bend to Fort Wayne. Under investigation and pending.
- Nov. 6. Application by Alexandria Iron & Milling Co., of Alexandria, Ind., for approval of refund on shipment of scrap iron from Kokomo to Alexandria, Ind., via C., C., C. & St. L. Ry.; rate charged 6.5 cents per cwt. Investigation developed tariff rate charged. Commission declined to approve refund.
- Nov. 7. Application by B. E. Miller, of Albion, Ind., for approval of refund on 1 barrel of whiskey, from Lawrenceburg, Ind., to Albion, Ind., via C., C., C. & St. L. Ry. and B. & O. R. R.; rate charged 29 cents per cwt. Investigation developed tariff rate charged. Commission declined to approve refund.
- Nov. 12. Application by U. S. Brick Corp., of Michigan City, Ind., for approval of refund on shipment of brick from Michigan City to Ligonier, Ind., via Mich. Cent. R. R.; rate charged \$1.70 per net ton. Under investigation and pending.

Nov. 13. Application by E. T. Slider, of New Albany, Ind., for reduction in rate on plaster from New Albany to Milltown, Ind., via Southern Ry., to basis of rates on lime and cement. Investigated and submitted to Southern Ry. Co., which company has agreed to publish rate requested by applicant. Applicant so notified Nov. 23, 1907.

Nov. 13. Application by Abe Feinberg, of Muncie, Ind., for adjustment of rates on scrap iron from Muncie to Chicago to basis of rates thereon from Chicago to Muncie. Movement interstate and applicant so notified.

Nov. 13. Application by T. St. L. & W. R. R. Co. for approval of refund on car of scrap iron from Van Buren, Ind., to Elwood, Ind., to basis of \$1.00 per gross ton. Investigation developed tariff rate charged, and Commission declined to approve refund.

Nov. 14. Application by Anderson Foundry and Machine Works, of Anderson, Ind., for refund on six carloads of brick from Laketon, Ind., on C. & E. R. R., to Anderson, Ind., via Vandalia R. R. and P., C. & St. L. Ry.; rate charged, \$2.20 per ton. Investigation made. Commission approved refund to basis of 80 cents per ton on shipment moving prior to August 1, 1907; and to 8 cents per cwt. on shipments moving subsequent to August 1, 1907.

Nov. 19. Application by Walnut Lumber Co., of Indianapolis, Ind., to adjust rates on lumber from Patrickburg to Indianapolis, Ind., via Monon Ry., to 8 cents per cwt., same as rate from Bloomfield to Indianapolis, via same line. Under investigation and pending.

Nov. 21. Application by Riley & Brown, of Milroy, Ind., alleging overcharge on shipment of grain from Milroy to Cincinnati, via Lawrenceburg, and C., C. & St. L. Ry.; shipment reconsigned from Lawrenceburg, moved on through rate of 5 cents per cwt. plus 2 cents per cwt. reconsignment charge. Investigation developed tariff rates charged. Commission declined to approve refund.

Nov. 21. Application by L. E. & W. R. R. Co. for approval of refund on shipment of cinders from Kokomo to Scircleville, Ind.; rate charged 5 cents per cwt. Investigation made and Commission approves refund to basis of 80 cents per ton.

Nov. 22. Application by Maynard Coal Co., of Columbus, O., alleging overcharge on carload of coal (anth.), from Marion, Ind., to Winchester, Ind., via C., C. & St. L. Ry.; shipment originating at Carbondale, Pa. Under investigation and pending.

Nov. 25. Application by Vandalia R. R. Co. for approval of refund on shipments of logs from Asherville and Stearleys, on its Centre Point Branch, to Limesdale, Ind.; rate charged 7 and 6 cents per cwt., respectively. Investigation developed tariff rates charged. Commission declined to approve refund.

Nov. 30. Application by S. P. Coppock Company, of Fort Wayne, Ind., for approval of refund on shipment of lumber from Orleans, Ind., to Kendallville, Ind., via C., I. & L. Ry. and G. R. & I. Ry.; rate charged

13 cents per 100 lbs. Investigation developed available rate of 12 cents per cwt. Commission approved refund to basis of 12 cents per cwt.

Oct 26. Application by A. Bartel Company, of Richmond, Ind., for through class rates from Richmond, Ind., to Westport, Ind., via Knightstown, Ind., P., C., C. & St. L. Ry. and C., C. & St. L. Ry. Under investigation and pending.

#### APPLICATIONS FOR ADJUSTMENTS AND REFUNDS IN PASSENGER FARES.

1907.

May 23. Application by Nathan & Levy, of Fort Wayne, Ind., for reduction in passenger fares from Tillman to Smith's Mills, Ind.; distance, 3 2-5 miles; fare alleged to be 20 cents; also from Fort Wayne, Ind., to Baldwin, Ohio, distance 18.5 miles; alleged fare, 60 cents. Investigation developed that fare from Tillman to Smith's Mills was 8 cents. Applicant so advised, and withdrew claim as to fare from Tillman to Smith's Mills. Fare from Fort Wayne to Baldwin interstate, and applicant so notified. Pending checking in of interstate fares in C. P. A. territory.

June 18. Application by J. H. Garrison, of Vincennes, Ind., for approval of refund account alleged overcharge in fare from Wabash to Vincennes, Ind., via Indianapolis, Ind., via C., C., C. & St. L. Ry. Co. Investigation had. C., C., C. & St. L. Ry. Co. made refund to \$1.13 to applicant under authority of Commission.

June 26. Application by B. F. Graves, of Pennville, Ind., alleging fares charged by L. E. & W. R. R. Co. in excess of 2 cents per mile from points in Indiana to points in Ohio. Under investigation and pending checking in of interstate fares in C. P. A. territory.

June 26. Application by J. H. Meos, of Columbus, Ind., alleging fare charged in excess of 2 cents per mile from Charleston, Ill., to Indianapolis. Referred to Interstate Commerce Commission. Pending.

#### APPLICATIONS FOR ADJUSTMENTS OF EXPRESS CHARGES.

July 8. Application by Oliver Hixon, of Mecca, Ind., alleging excessive rates on express matter from Indianapolis to Mecca, Ind., via Wells-Fargo and U. S. Express. Rates charged in accordance with tariffs. Pending general inquiry by Commission concerning express rates in Indiana.

Sept. 21. Application by Purdue University, of Lafayette, Ind., for extension of free delivery limits of American and Pacific Express Companies to West Lafayette, Ind. Submitted to American Express Company. Express companies declined to extend present delivery limits. Pending general inquiry by Commission concerning express rates, practices, etc., in Indiana.

**REDUCTIONS IN RATES AUTHORIZED BY COMMISSION EFFECTIVE WITHOUT STATUTORY NOTICE.**

Applying on.	Rate in Cents.	From.	To.	Road.
Brick.....	70 per ton.....	Marion.....	Montpelier.....	T., St. L. & W.
Brick.....	60 per ton.....	Marion.....	Richmond.....	P. C. C. & St. L.
Brick.....	55 per ton.....	Brasil.....	Danville.....	C & E. I.
Cabbage.....	3 per cwt.....	Kersey.....	C. & W. V. Pts.....	C. & W. V.
Cinders.....	35 per ton.....	Kokomo.....	Windfall.....	P. C. C. & St. L.
Coal.....	56 per ton.....	Blackburn.....	Indianapolis.....	E. & T. H.
Coal (Propl.).....	27.5 per ton.....	Indianapolis.....	Wabash.....	C. C. C. & St. L.
Coal.....	5.00 per car.....	Casparis Qr.....	Romona, O., Qr.....	Van. R. R.
Drain tile.....	(Intra-state rates between local points.)			C. & E. I. R.
Grain.....	(Commission authorized publication of tariff rates.)		reducing local grain	E. & T. H.
Hay.....	5.00 per car.....	Mecca.....	Mecca No. 3 Mine.....	C. & E. I.
Ice.....	75 per ton.....	Marion.....	Indianapolis.....	T., St. L. & W.
Millcinder.....	Commodity basis.....	Chicago.....	Indiana Harbor.....	I. H. B. R. R.
Crushed stone.....	25 per ton.....	Kokomo.....	Frankfort.....	T., St. L. & W.
Switching.....	(Reduction.)	At Lawrenceburg.....		C. C. C. & St. L.
Crushed stone.....	(Intra-state rates in P.....	enna, Co. Supp. 10 to	I. R. C. B-14.)	Pa. Co.
Vegetables (canned)....	11.5 per cwt.....	Noblesville.....	Clay City.....	C. I. Ry.

**PASSENGER FARES AUTHORIZED BY COMMISSION.**

Round trip fares, between Bluffton and Marion, Indiana, via M. B. & E. Traction Company.

Theatrical party rate, Muncie to Lebanon, via Cent. Ind. Ry.

Theatrical party rate, Lebanon to Anderson, via Cent. Ind. Ry.

Theatrical party rate, Anderson to Lebanon, via Cent. Ind. Ry.

Excursion fares, Charlestown to Jeffersonville, via L. & N. I. Ry. & L. Co.

Baggage rates, excess, 1 cent per cwt. on line of C., S., B. & N. I. Ry.

Respectfully submitted,

L. E. MORTON,  
Clerk.

## **APPENDIX VI.**

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### **Rules of Procedure.**

APPENDIX VI.  
Rules of Procedure.



**RULES ADOPTED**  
**BY THE**  
**Railroad Commission of Indiana**

**JANUARY 1, 1908.**

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**1. SESSIONS AND INFORMAL HEARINGS.**

A. *Office.*—The office of the Secretary of the Commission will be open each work day from 8 a. m. to 5 p. m., where petitions, complaints and other documents may be filed for the consideration of the Commission, and where information may be obtained concerning the pending business of the Commission.

B. *Hearings.*—Public hearings of contested cases will be held at Room 85 of the State House, unless otherwise ordered by the Commission, of which notice will be given to the interested parties.

C. *Informal Complaints.*—All informal complaints in writing brought to the attention of the Commission, concerning any matter within the jurisdiction of the Commission, will be at once investigated under direction of the Commission, and if well founded, an effort will be made by the Commission to adjust the cause of complaint between the parties.

**2. RECORDS.**

A. *Entry Docket.*—There will be kept in the office of the Secretary an Entry Docket, in which all contested cases will be entered, as filed, bearing consecutive numbers.

B. *Final Record.*—Also a Final Record, in which the proceedings of the Commission, in contested cases, shall be entered at length by the Secretary under direction of the Commission.

C. *Adjustment Record.*—Also an Adjustment Record, in which the proceedings upon all complaints which do not result in a contested hearing, shall be briefly entered by the Secretary under the direction of the Commission.

D. *Inspection Records.*—Also Inspection Records in which shall be briefly entered all proceedings in the matter of inspection of railroads, inspection of cars and reports of accidents.

## 3. PLEADINGS.

A. The only pleadings required shall be a petition and a petition for a rehearing. Respondents may file answers if they so desire. All defenses will be heard without plea. As many copies of the petition shall be filed as there are respondents named.

## 4. WITNESSES.

A. Subpoenas for witnesses or to produce documents or records will be issued by the Secretary at the request of parties or upon the order of the Commission, directed to any constable or sheriff in the State.

B. All expenses of serving witnesses and their mileage and per diem must be paid by the party calling the witness.

C. For serving summonses, and subpoenas ordered by the Commission, the Commission will pay the fees paid to sheriffs for serving like process from the circuit courts.

D. The Commission will pay two dollars per day and two cents per mile to all witnesses whose attendance is required by order of the Commission.

## 5. LONG AND SHORT HAUL.

A. Before hearing a petition to be allowed to charge less for the long than for short hauls as provided by the laws of Indiana, the Commission will publish a notice of the pendency of the petition in some newspaper in the vicinity where the permit is to operate. Such notice will be published but a single time, not less than ten days before the hearing. The expense of publication shall be paid by the petitioner. Any party interested in the petition may appear in person or by counsel and resist the same.

## 6. TRANSCRIPTS.

A. Upon request the Commission will, through its Secretary, furnish certified copies of any record or document on file with the Commission, or a transcript of any evidence delivered in any hearing before the Commission, excepting that transcripts of reports of accidents and evidence taken concerning accidents will not be furnished except upon petition filed and special order of the Commission with reference thereto.

B. A charge of twenty cents per page will be made for all such transcripts, and the fees when paid will be deposited daily in the State treasury.

## RULES CONCERNING INTERLOCKING DEVICES.

Rule No. 1. When plans are presented for a crossing which is to be interlocked by agreement between the connecting roads, the road presenting the plans must furnish the Commission with the approval of the interested connecting lines indorsed upon the plans, or a letter from the proper officer thereof approving the plans presented.

Rule No. 2. When a petition is filed with the Commission pursuant to Section 3 of the Acts of 1897, there shall be filed with the same as many copies as there are roads interested in the crossing. Such petition and accompanying maps shall comply with such section, and in addition thereto embrace the following:

(a) Copies of all contracts or agreements existing between the connecting roads concerning the crossing.

(b) An estimate of the probable cost of constructing a manual interlocking device at the crossing.

(c) An estimate of the probable cost of constructing a power interlocking device at the crossing.

(d) An estimate of the probable cost of annual maintenance and operation for each character of device.

(e) A statement of the number of levers necessary to properly control the crossing, and the functions properly chargeable to each road.

(f) A statement of the daily train movement over such crossing by each company.

Rule No. 3. Petitions filed pursuant to Rule No. 2 will be heard at the site of the crossing, or at such other place as the Commission may determine after notice to the parties. The roads against which the petition is presented at the time of the hearing may file an answer admitting or denying the statement in the petition and may file a counter statement concerning the matters required by "a" to "f" inclusive of Rule 2.

Rule No. 4. If a crossing is ordered interlocked upon petition, and the interested roads fail, for thirty days after the Commission's order, to agree as to the manner of complying with the Commission's order, and to proceed with the work, then the Commission, after notice to the roads and a hearing, will assign the construction, maintenance and operation of the device to one of the roads, and authorize it to collect compensation from the other roads, in accordance with the order of the Commission.

Rule No. 5. All plans to protect crossings, presented by agreement of the roads, or to comply with the Commission's order upon petition, must be drawn to a scale of not less than fifty feet to one inch, and be filed in duplicate and contain the following:

(a) Map of the territory, showing all the tracks, curves, sidings, switches, cross-over tracks and connecting tracks between roads, also all buildings, trees and other obstructions to view. Also the proposed location of the interlocking tower.

(b) All grades upon all roads shall be plainly marked on either side of the crossing. The location of all bridges between the derail and crossing shall be shown. The elevation or depression of all tracks above or below the contiguous territory shall be shown.

(c) A complete showing of the ground plan of the proposed device in all its parts, and especially the location of derails and home and distant signals. Tower construction and interior plan will be passed upon only after completion.

Rule No. 6. In all devices hereafter constructed or rebuilt the derails in the main track of single track steam lines, and in the track taking the current of traffic in double track steam lines, shall be located not less than five hundred feet in advance of the crossing or fouling point which it is intended to protect, unless the Commission shall determine, after investigation, that local conditions warrant a different location, in which event the Commission shall fix the location of the derail.

(a) In all devices hereafter constructed or rebuilt, reverse derails in the track of steam lines shall be located not less than two hundred feet in advance of the crossing or fouling point which they are intended to protect, unless the Commission shall determine, after investigation, that local conditions warrant a different location, in which event the Commission shall fix the location of the derails.

(b) In all devices hereafter constructed or rebuilt the derails in the track of traction or interurban lines shall be located not less than two hundred feet in advance of the crossing or fouling point which they are intended to protect, unless the Commission shall determine, after investigation, that local conditions warrant a different location, in which event the Commission shall fix the location of derails.

(c) If local conditions exist, requiring a different location of derails, than as required by this rule, a detailed, written statement of such local conditions shall be filed with the plans and submitted to the Commission for its consideration.

Rule No. 7. If, in the judgment of the Commission, the use of guard rails is warranted, guard rails of such length as the Commission may determine will be approved in plans and plants having derails five hundred feet or more from the crossing or fouling point. In all other cases guard rails will not be approved or allowed, except under special conditions, to be shown by plans, and detailed, written statement accompanying plans for submission to the Commission, the Commission reserving authority to make exceptions to this rule when the special conditions demand it, or to order the use of guard rails upon its own motion.

(a) The use of guard rails, contrary to this rule, in plans now in operation is condemned, and the different roads are requested to remove the same by March 1, 1907, unless within that time they shall make to the Commission a showing of special conditions necessitating their use, and procure the authority of the Commission for their continuance.

Rule No. 8. The Commission will not inspect complete plants until the applicant files with the Commission:

(a) Complete layout of plant, as required by Rule No. 5, having all points of control duly numbered to correspond with the number of the lever used in its control.

(b) Complete locking sheet showing the exact manner in which the plant is installed.

(c) Complete manipulation sheet, showing manner of operation in setting up each route governed by the plant.

(d) Copy of the rules issued by the applicant, for the government of employes having charge of interlocking devices.

Rule No. 9. Completed plant must be connected up ready for service before inspection is requested, with instructions that all trains come to a full stop at home signal.

Rule No. 10. The Secretary is ordered to tax to and collect from each applicant for the approval of plans or plant the following fees: Ten dollars upon behalf of the Commission; seven dollars and fifty cents on account of engineer's services in examining and reporting upon plans; fifteen dollars and traveling expenses on account of engineer's services in examining and reporting upon the construction and operation of the plant. Such sums, when collected, shall be daily paid to the State Treasurer.

Rule No. 11. All companies having charge of the maintenance and operation of such plants shall inspect the same monthly and report the results of such inspection to the Commission not later than the first day of each succeeding month.

(a) All companies interested in the operation of plants, but not charged with the maintenance and operation thereof, shall inspect the same once each sixty days and report to the Commission the result of the inspection.

## **APPENDIX VII.**

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### **Recent Transportation Laws.**





# Transportation Laws of Indiana.

Enacted by the 65th General Assembly.

## COMMISSION ACT.

AN ACT providing for the creation of a railroad commission, the appointment and compensation of the members thereof, prescribing the powers and the duties of such commission, its members and officers; prescribing certain powers, duties and obligations of railroad companies, street, interurban and suburban railway companies, express companies, sleeping car companies and other common carriers; defining certain misdemeanors and prescribing penalties therefor; creating and providing for the collection of penalties by civil action from railroad companies, street, interurban and suburban railway companies, express companies, sleeping car companies and other common carriers by such commission, for the use of the state in cases therein provided for; creating and providing for the collection of penalties by civil action by the injured party in cases therein provided for; providing for a review of the decisions of the commission in certain cases, and conferring jurisdiction on certain courts to hear and determine such proceedings, and defining the procedure therein; appropriating money to carry out its provisions and repealing all laws and parts of laws in conflict therewith.

[S. 194. Approved March 29, 1907]

### **Railroad Commission—Appointment—Oath—Salary, Etc.**

Section 1. Be it enacted by the general assembly of the State of Indiana, That a railroad commission is hereby created, to be composed of three persons, to be appointed by the governor, who shall, within sixty days after the taking effect of this act, appoint three persons as such commissioners, whose terms of office shall begin on the Monday next following such appointment, one of whom shall hold office for a term of four years, one for a term of three years, and one for a term of two years, or until their successors shall be appointed and qualified. Thereafter, at the expiration of the term of office of each of such commissioners, his successor shall be appointed by the governor for a term of four years: Provided, That at no time shall there be more than two of said commissioners members of the same political party.

(a) The persons so appointed shall be resident citizens of this state, and qualified voters under the constitution and laws. (b) No commissioner hereunder shall hold any office under the government of the United States or of this state, or of any other state government, and shall not, while such commissioner, engage in any occupation or business inconsistent with his duties as such commissioner. (c) The governor may remove any commissioner at any time for inefficiency, neglect of duty, malfeasance in office, but he shall give to such commissioner a copy of the charges against him, and an opportunity of being heard in his defense. The governor shall fill any vacancy by appointment, and the person so appointed shall fill out the unexpired term of his predecessor. (d) Before entering upon the duties of his office, each of said commissioners shall take and subscribe and file with the secretary of state an oath of office in the following form: I do solemnly swear (or affirm, as the case may be), that I will support the constitution of the United States and the constitution of the State of Indiana, and that I will, to the best of my ability, faithfully and justly discharge the duties of the office of railroad commissioner and enforce the provisions of all laws of the State of Indiana, which declare and define my duties, and of all laws of said state, the enforcement of which devolves upon the railroad commission of Indiana. Each of said commissioners shall file in the office of the secretary of state a good and sufficient bond in the sum of ten thousand dollars, to be approved by the governor, for the faithful discharge of his duties. (e) Each of said commissioners shall receive an annual salary of four thousand dollars (\$4,000), payable in the same manner that salaries of other state officers are paid. (f) It shall be unlawful for any member of said commission, their secretary, or any of their clerks and employes, to receive any free transportation, reduced rates for transportation or any other perquisite, gift, or emolument from any railroad company or other party interested in railroad transportation during the term of their respective office or employment, and any person violating the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than fifty dollars, nor more than one thousand dollars, and upon conviction thereof of any commissioner, the governor shall declare his office to be vacant, and a successor shall be selected as elsewhere provided by this act in case of vacancy, except that all carriers subject hereto shall provide free transportation, good in this state, for the inspectors employed by said commission, to be used only while traveling on the business of the commission.

**Organization—Secretary—Clerk—Salaries—Expenses.**

Sec. 2. (a) The commissioners appointed as hereinbefore provided, shall meet at Indianapolis on the Thursday next following the commencement of their term of office, and organize, and select one of their number chairman of said commission. A majority of said commissioners shall constitute a quorum to transact business, but on the order of the commission any one of its members may conduct a hearing or investigation and take the evidence therein, and report the same to the commission for its consideration and action. Said commission may appoint a secretary at a salary of not more than twenty-five hundred (\$2,500) dollars per annum, who shall be the fiscal and disbursing agent of the commission, and may appoint one clerk at a salary of not more than fifteen hundred (\$1,500) dollars per annum, and such other persons as may be necessary to aid the commission in enforcing the provisions of this act: Provided, All appointments made by said commission of counsel, railroad or railway inspectors, experts or engineers, and the compensation to be paid them, shall be in writing and shall be approved by the governor. The secretary and clerk shall each take the usual oath of office, which shall be filed with the secretary of state, together with a certificate of their appointment. The secretary shall execute a bond in the sum of five thousand dollars (\$5,000) with sureties to be approved by the governor, payable to the State of Indiana, and he shall keep a full and correct record of all receipts and disbursements and of the transactions and proceedings of said commission, and perform such duties as may be required by the commission. They shall be known collectively as "Railroad Commission of Indiana," and shall have a seal with the words "Railroad Commission of Indiana" engraved thereon. The said commission shall be furnished with the necessary office rooms in the state capitol building at Indianapolis, and with the necessary furniture, stationery, maps, books and technical journals and literature and other supplies needed in the discharge of its duties. All the necessary expense of said commission in carrying into effect all the provisions of this act, including salaries of its appointees and employes, other than traveling expenses, shall be audited and approved by the auditor of state and paid by the treasurer of state out of any funds in his hands not otherwise specifically appropriated, and the treasurer of state, upon the order of the commission, approved by the governor, shall advance to the secretary of the commission from time to time such funds as may be necessary to meet the expenses of the commission: Provided, That the sum so advanced and

remaining in the hands of the secretary unexpended shall not at any time exceed five hundred dollars (\$500). The members of said commission, its secretary and clerk, and such other persons as it may appoint or employ as provided in this act, shall be entitled to receive from the state their actual necessary traveling expenses, which shall include the cost of transportation, hotel, telegraph and telephone bills while traveling on the business of the commission, which amounts shall be paid by the treasurer of state on the order of the governor upon an itemized statement thereof, sworn to by the party who incurred such expense in traveling, and after the same shall have been approved by the commission. When, in the judgment of the governor, expressed in a written order to the commission, which order shall be entered of record in their minutes, it will better qualify the members of such commission to discharge their duties, they or either of them designated in the order of the commission, may visit the railroad commissions of other states, or the Interstate commerce commission, or may attend the meetings of the National Association of Railway Commissioners, or the sessions of committees of such associations, or the sessions of other railroad organizations, having under consideration subjects which concern the duties of such commission, and the traveling expenses so incurred, when audited as above, shall be paid out of the state treasury, as herein provided.

(b) Said commission may hold sessions at any place, when deemed necessary, to facilitate the discharge of its duties.

### **Powers and Authority.**

Sec. 3. The power and authority is hereby vested in the railroad commission of Indiana, and it is hereby made its duty as herein-after provided to supervise all railroad freight and passenger tariffs, and to adopt all necessary rules and regulations to govern car distribution and delivery, train service and accommodations and demurrage rules and charges and for car service or the transfer and switching of cars from one railroad to another at junction points, or where entering the same city or town, and to supervise charges therefor; to require and supervise the location and construction of sidings and connections between railroads; to supervise the crossing of the tracks and sidetracks of railroads by other railroads now in process of construction or extension, and to prescribe the terms and conditions and manner in which such crossings shall be made; and the character thereof, whether at grade or over or under grade, and the authority now vested in the auditor of state under the laws

of this state with reference to the crossings of railroads by other railroads, or by railroads operated by electricity, and the installation and maintenance of interlocking appliances at such crossings is hereby vested in the commission; to supervise and regulate private car line service and private tracks where such tracks are operated in connection with any railroad in this state or share in the rates or earnings of any common carrier subject to the provisions of this act; to correct abuses and prevent unjust discrimination and extortion in the rates of freight and passenger tariffs on the different railroads, and to enforce the same by proceedings for the enforcement of penalties provided by law through courts of competent jurisdiction.

(a) The classification of freight adopted by the railroads shall be uniform and shall apply to and be the same for all railroads subject to the provisions of this act.

(b) The said commission shall have power and it shall be its duty, as hereinafter provided, upon the failure of the railroad companies so to do, to fix and establish for all or any connecting lines of railroads in this state reasonable joint rates of freight, transfer and switching charges for the various classes of freight and cars that may pass over two or more lines of such railroads.

(c) If any two or more connecting railroad companies shall fail to agree upon a fair and just division of the charges arising from the transportation of freights, passengers or cars over their lines, the commission shall, as hereinafter provided, fix the pro rata part of such charges to be received by each of said connecting lines.

(d) The commission shall have power, as hereinafter provided, and it shall be its duty from time to time, to alter, change, amend or abolish any classifications or rates established by any railroad company or companies whenever found to be unjust, unreasonable or discriminative, and to make and substitute for said unjust, unreasonable or discriminative rates or classifications, amended, altered or new classifications or rates, which shall be put into effect by said railroad company or companies, and in case any carrier fails to have any rate or schedule of rates to any point on its line or on any connecting line, in this state, the commission, as hereinafter provided, may make and order a rate or schedule of rates which shall be published and put into effect by said carrier or carriers.

(e) The commission may adopt and enforce such rules, regulations and modes of procedure as it may deem proper, to hear and determine complaints and for the conduct of all investigations held

by it or its appointees and to regulate the conduct of its inspectors and appointees.

(f) The commission shall enforce, as hereinafter provided, reasonable and just rates of charges for each railroad company subject hereto for the use or transportation of loaded or empty cars on its road; and may so enforce for each railroad, or for all railroads alike, reasonable rates for storing and handling of freight, and for the use of cars not loaded or unloaded within forty-eight hours after notice of arrival and placement for service, not to include Sundays or legal holidays.

(g) The commission shall enforce reasonable rates as hereinafter provided for the transportation of passengers over each or all of the railroads subject hereto, which rates shall not exceed the rates fixed by law. The commission shall have power to enforce reasonable rates, tolls or charges for all other service performed by any railroad subject hereto.

(h) The provisions of this section shall be construed to mean that the power of said commission extends to any case where any person, firm, corporation or association, or any mercantile, agricultural or manufacturing society, or any body politic or municipal organization, complain of anything done, or omitted to be done by any common carrier subject to the provisions of this act, and shall apply to said commission by petition, which shall briefly state the facts; whereupon a statement of the charges thus made shall be forwarded by the commission to such common carrier who shall be called upon to satisfy the complaint, or to answer same in writing within a reasonable time to be specified by the commission. If such carrier shall not satisfy the complaint within the time specified or there shall appear to be any reasonable ground for investigating said complaint it shall be the duty of the commission to investigate the matters complained of, and no complaint shall at any time be dismissed because of the absence of direct damage to the complainant. And said commission shall have the power after such investigation to make such corrections, alterations, changes or new rules or regulations or rates as may be necessary to prevent injustice or discrimination to the party complaining or to any other person, firm or corporation: Provided, That when any rate, charge, classification, rule or regulation shall have been so made, changed, modified or added to by said commission such order shall operate for the benefit of all persons or corporations situated similarly with said complaining party.

(i) Every such carrier shall annually, on or before the first day of October, file with such commission, under the signature and oath of its principal accounting officer, a detailed report, in the form prescribed by the commission, of all its financial and business operations in this state for the year ending on the preceding 30th day of June, and such report shall embrace such other information and facts as shall be prescribed by the Interstate Commerce Commission for reports of interstate carriers thereto, and such reports shall be in the form so prescribed, insofar as the same is applicable. Any carrier failing to make such report for thirty days after the same shall be due unless the time therefor shall be extended by the commission shall forfeit and pay to the State of Indiana the sum of one hundred dollars (\$100.00) for each and every day of such default, to be collected as provided in this act: Provided, That the first report required to be made by an electric, interurban or suburban railroad pursuant to this paragraph shall be for the year ending June 30, 1908.

(j) All carriers subject to this act and operating steam railroads, as between themselves, and all carriers subject to this act and operating interurban or suburban railroads, as between themselves, shall afford all reasonable and proper facilities for the interchange of traffic between their respective lines at junction points, and for there receiving, forwarding and delivering passengers and property, and each such carrier shall transfer, deliver and accept without delay or discrimination, and promptly forward all freight or cars, loaded or empty, and all or any passengers there tendered by any such connecting lines and destined to any point on its line or any connecting line: Provided, That in special cases where it is practicable, and the same may be accomplished without endangering the equipment, tracks, or appliances of any such carrier, the commission, upon application, may require any such steam and interurban or suburban railroad to interchange cars, carload shipments, less than carload shipments and passenger traffic, and for that purpose may require the construction of physical connections at junction points, and the construction of switch and private track connections as provided in this act. None of the provisions of this act except as specified in this paragraph in any way relating to freight, freight tariffs, or the delivery or distribution of freight cars, or the construction of sidings, turnouts or connections for the use or operation of freight cars, shall apply to any carrier unless or until the aggregate receipts for the carriage of freights on the carrier's line shall amount to thirty-three and one-third per cent.,

or more, of the gross receipts of the business of such carrier for the year preceding the filing of its last annual report as required by this act: And provided, further, That the railroad commission of Indiana shall have no power by virtue of any provision in this act contained to compel any street railway, interurban or suburban street railway company, to carry any freight prohibited by any municipal ordinance or contract.

(k) Every such carrier engaged in handling freight in carload lots may be required, upon application therefor by the party having use for the same, to construct upon its property and property connect with its line, when the same can be done with safety and is reasonably necessary, all siding, switch, spur or turnout tracks, necessary to accommodate the business of any elevator, mill, factory or other industrial enterprise that is now, or may hereafter be constructed abutting its line, and where there is no space for the proprietor thereof to construct the same on his property: Provided, That the title to any such siding shall remain in the carrier which shall have authority to remove the same whenever it becomes necessary so to do to accommodate the public interests, upon payment of the value of the material in said track, if the cost of original construction shall have been paid by the industry, and providing that any such track may be used by any such carrier in performing switching service to any industry located beyond such elevator, mill, factory or other industrial enterprise. In case the carrier and proprietor can not agree upon the terms for constructing and maintaining such facilities, the commission, upon application, shall prescribe the terms upon which the same shall be constructed and maintained. Every such carrier shall, upon request and upon the payment of reasonable compensation therefor, construct a switch connection from its line to and connecting with any lateral or branch line of railroad, or any private or industrial switch, which shall be constructed adjacent to its line and property in this state, whenever such connection is reasonably practicable and can be put in with safety, and a reasonable necessity therefor exists. In case of a disagreement thereon, the commission, upon application, shall determine the compensation for making such connection and maintaining the same.

(l) All such carriers, handling freight in carload lots, at all points in this state, where they connect with, or cross at, over or under grade, the line or lines of any one or more carriers engaged in like business, shall construct and maintain proper interchange tracks and switches at all such points so that carload traffic may be



conveniently interchanged between such carriers at such points, and for the purpose of enabling such carriers to comply with this requirement they are empowered to jointly purchase and own or appropriate under the present or future laws of this state concerning the exercise of the powers of eminent domain, any additional lands or property necessary to enable them to comply with this requirement: Provided, That upon a sufficient showing the commission may relieve any such carrier from the operation of this provision until such time as the necessity therefor shall arise. In case such connecting carriers can not agree as to the division of the expense of making and maintaining any such facilities and tracks, the commission, upon application therefor, shall determine the same.

(m) Every such connecting carrier shall, upon the order of the commission made upon complaint filed and after a hearing is had, as provided in this act, receive from its connecting lines at junction points, all carload shipments tendered by any such connecting line, and upon payment of reasonable transfer or switching charges therefor, shall transport such car over its tracks and deliver the same to the consignee on his private track connected with such tracks. Every such connecting carrier at junction or terminal points, upon like complaint, proceedings and order of the commission, as provided in this paragraph, shall accept from any other connecting carrier any empty car there tendered, and upon payment of a reasonable switching charge therefor, shall transport such empty car to any industry or private track connected with its line at such junction or terminal point for loading, and return the same when loaded to the line making such delivery: Provided, That any such carrier shall not be required to perform such switching services in any case where such carrier can transport the freight to destination and point of delivery with reasonable dispatch, and at the same rate as the line offering the car, and shall at the time offer the car and be prepared to perform the services. Every carrier subject to the provisions of this act who shall receive a car or cars belonging to another carrier at a terminal or junction point, shall, upon the demand of the owner of such car or cars, promptly return the same loaded or empty to such terminal or junction point by the most direct available route, and any court of competent jurisdiction shall, upon proper application, have full power and authority to enforce this requirement.

(n) All railroad companies doing business in this State shall, upon the demand of any person or persons interested, establish

reasonable joint rates for the transportation of freight between points upon their respective lines within this State, and shall receive and transport freight and cars over such route or routes as the shipper may direct. Carload lots shall be transferred without unloading into other cars, unless such unloading into other cars shall be done without charge therefor to the shipper or receiver of such carload lots, and unless such transfer be made without unreasonable delay; and less than carload lots shall be transferred into the connecting railway's cars at cost, which shall be included in and made a part of the joint rate adopted by such railway companies, or established as provided in this act.

(o) No such carrier shall hereafter construct a line of railroad across another line of railroad in this State without the approval of such commission, nor until an application therefor, and an instrument of appropriation to acquire such rights has been filed with the Commission and notice given to the connecting lines and a hearing thereon had. Full power and authority are given to the Commission in any such proceedings to determine in what manner and at what point any such crossing shall be made, and whether the crossing shall be at grade, or over or under grade. When the Commission determines the place and manner of crossing it shall determine the damages, if any, which the junior line shall pay to the senior line, or lines, for the privilege of crossing. The Commission, by its order, shall determine and define the manner in which the crossing shall be made, and thereafter maintained, and the manner in which the expense thereof shall be apportioned between the connecting lines, and in what manner the work shall be performed, and by whom and within what time, and such other matters as may be necessary to fully determine the controversy between the parties; and thereupon the junior line, upon the payment, or tender, of the damages so awarded, may proceed with the construction of such crossing in accordance with the order of the Commission. In case any such crossing shall be on a street in any city or incorporated town in this State then the order of the Commission concerning the same shall not become operative until the common council of such city, or the board of trustees of such town, shall consent thereto by resolution duly enacted.

(p) Any such carrier which shall be dissatisfied with the damages awarded by the Commission may commence in any circuit or superior court of the county where such crossing is located, an action against the other connecting line, or lines, at such point, for the purposes [purpose] of having such damages reassessed by such

court in accordance with the laws of this State concerning the exercise of the powers and privileges of eminent domain, and in such court the only question triable shall be the amount of damages properly chargeable against the crossing line on account of the crossing being made and constructed in the manner fixed and upon the terms prescribed by the Commission therefor, and to be maintained in the manner and upon the terms prescribed by the Commission. None of the provisions of this act with respect to railroad crossings shall be construed to apply to the crossing by a street railroad company with its street railroad, interurban street railroad or suburban street railroad of the tracks and right of way of any railroad company or of any other street railroad, interurban or suburban street railroad, or to limit the right to cross any of such railroads on streets or highways, or to abridge or impair such rights as street railroad companies organized under the laws of the State of Indiana may now possess under existing laws to construct, maintain and operate either street railroads, interurban or suburban street railroads, or wires across the tracks, rights of way and railroads of any other railroad, street railroad, interurban or suburban railroad, on any street or highway on which said street railroad company may be legally authorized to operate, without obtaining the consent of the company owning or operating the right of way, tracks or railroad to be crossed, or resorting to the special proceedings under the act of 1903 herein mentioned, and nothing in this act contained shall be held to modify or otherwise affect the provisions of the act entitled "An act in relation to the crossings of street railroads and railroads, and declaring an emergency," approved March 3, 1903, but any street railroad company shall have the right to construct, maintain and operate its street railroad, interurban or suburban street railroad at grade across the tracks and right of way of any railroad company by the special proceedings provided in said act: Provided, That the duties imposed upon the auditor of State in respect to interlocking devices by section 1 of said act shall be and hereby are imposed upon such Commission, which shall have the same power with reference to such interlocking devices as by the provisions of this act it has with reference to interlocking and other safety devices at crossings of railroads, and that the proceedings provided for by section 5 of said act in relation to the separation of grades shall be had before said Commission, instead of in the circuit or superior court, as now provided in section 5 of said act. And any party dissatisfied with the award of damages or apportionment of expenses made by the Commission in any such proceeding for the

separation of grade crossings may bring its action in any circuit or superior court of this State to review the same, as provided in section 6 of this act. Any street, interurban or suburban street railroad company shall be permitted to cross with its feed and transmission wires over or under the right of way, tracks, wires and railroad of any steam, street, interurban or suburban street railroad company, and the wires and other appliances of any telegraph, telephone, electric light, power or other company maintaining wires, after an application therefor and an instrument of appropriation to acquire such right has been filed with the Commission and at least ten days' notice thereof given to the company whose property is to be crossed and a hearing had thereon; and full power and authority are given to the Commission to determine in what manner such crossing shall be made at any point other than upon streets and highways and as to such crossings of streets and highways, the law now existing shall control the rights of the parties. The Commission by its order shall determine and define the manner in which the crossing shall be made, and thereafter maintained, and the manner in which the expense thereof shall be apportioned between the crossing companies and in what manner the work shall be performed and by whom and within what time, and such other matter as may be necessary to fully determine the controversy between the parties. The Commission shall have full power and authority to determine the amount of damages, if any, that shall be allowed to the company whose property is so to be crossed at any point other than upon streets, or highways, by such feed or transmission wires, and any party dissatisfied with any such award of damages may appeal therefrom as in this paragraph above provided to the circuit court of the proper county upon the question of such damages only. Upon the payment or tender of such damages, if any, allowed by the Commission, the company so desiring to cross may proceed with the construction of its feed or transmission wires over or under the right of way, tracks, wires, railroad and other appliances of any of said companies.

(q) In addition to the authority now conferred upon the Commission to order the installation and maintenance of interlocking devices and appliances at railroad crossings in this State authority is hereby conferred on the said Railroad Commission, of its own motion, or on information secured by the Commission of [from] its inspectors, engineers, or other persons, to order any carriers subject to this act, whose railroad lines cross each other at grade, or to order any carrier subject to the provisions of this act, whose line of

railroad crosses any stream in this State by a swing or draw bridge, to install, maintain or operate at said crossing, or at said bridge, an approved interlocking and derailling device, or to make connecting or other changes in any such existing device. Notice shall be given said carriers, as in other proceedings before the Commission, and plans submitted and approved by the Commission, and the Commission shall determine when necessary, or when the carriers fail to agree, the division of expense for the construction, maintenance and operation of said interlocker, and may assign to one of the connecting lines the construction, maintenance and operation thereof. Every carrier which shall fail to install such interlocker or make such changes within the time fixed by the Commission shall forfeit and pay to the State of Indiana the sum of one hundred dollars (\$100.00) for each week that such failure shall be continued: Provided, That such carrier or carriers shall not be requested to install any such device in any city or incorporated town in this State, until the common council or board of trustees shall approve the same by resolution duly entered of record: Provided, further, That none of the provisions of this paragraph "q" shall apply to any street, interurban or suburban street railroad, crossing any railroad, street interurban or suburban street railroad or any street, highway or private right of way in any city or town in this State.

(r) Such Commission, whenever it determines that life and property will be best secured thereby, shall order the operation of any interlocking device in use in this State to be discontinued until the same shall be put in the condition required by the Commission; and the operation of any such device by any such carrier, after the same has been forbidden by the Commission, is hereby declared to be unlawful and to subject the carrier to the penalties prescribed by this act.

(s) The Commission may, on the application of any railroad corporation, authorize it to use any safeguard or device, approved by said Commission, in place of any safeguard or device required by this act, which shall thereafter be used in lieu thereof, and the same penalties for neglect or refusal to install or use the same shall be incurred and imposed as for a failure to install or use the safeguard or device hereinbefore required, in lieu of which the same is to be used.

(t) Every railroad shall, when within its power so to do, and upon reasonable notice, furnish suitable cars to any and all persons who may apply therefor, for the transportation of any and all kinds of freight in carload lots. In case of insufficiency of cars at any

time to meet all requirements, such cars as are available shall be distributed among the several applicants therefor in proportion to their respective immediate requirements without discrimination between shippers or competitive or noncompetitive places: Provided, Preference may be given to shipments of live stock and perishable property.

#### **Revision of Rates or Rules—Proceedings.**

Sec. 4. Before any rates or charges of railroads or express companies or other carriers or companies, subject to this act, shall be revised or changed under the provisions of this act, and before any order shall be made by said Railroad Commission changing the rules or regulations of any such company respecting car service, the transfer or switching of cars from one railroad to another, or respecting the location or construction of sidings and connections between roads or respecting joint rates or charges by two or more of such companies, said Commission shall give the company or companies affected by such proposed order or revision, not less than ten days' written notice of the time and place where such rates or charges or the matters involved in said proposed order shall be considered; and such company shall be entitled to a hearing at the time and place specified in such notice and shall have process to enforce the attendance of its witnesses. All process herein provided for shall be served as in civil cases.

(a) The chairman and each of the members of said Commission and the secretary and clerk thereof, for the purposes mentioned in this act, shall have power to administer all oaths proper or necessary in the course of any hearing or investigation provided for by this act, or in the dispatch of any business concerning the Commission or its duties. Subpoenas commanding the attendance of witnesses and the production of papers, bills of lading or other evidence of shipment, way bills, books, accounts and other documents deemed necessary by the Commission in any proceeding pending before it may be issued by said Commission, signed by its secretary and served by reading or by copy, and such subpoena shall be served and the attendance of all such witnesses enforced as provided for in this act.

#### **Evidence in Proceedings.**

Sec. 5. In all proceedings by or before such Commission as provided in this act, and in all proceedings in any court in this State as provided in this act, such Commission and such courts shall re-

ceive in evidence all schedules of rates and charges, rules and regulations in force by such carriers in this State and filed with such Commission as provided in this act, and of all such rates, rules and regulations as shall be adopted by such Commission or ordered observed by any court of this State as provided in this act, without formal proof thereof being made, and such Commission and such courts shall likewise also receive in evidence the contents of all reports made to such Commission by such carriers as required in this act, and of all official and statistical reports and publications, published by the bureau of statistics in this State, or by the State Board of Tax Commissioners, by the interstate commerce commission, by the department having control of the federal census and of the United States commissioner of corporations, without formal proof being offered as to their authenticity.

### **Court Hearings—Appeals.**

Sec. 6. Any carrier, or other party, dissatisfied with any final order made by the Commission, may, within thirty days after the entry thereof, begin an action against the Commission in any court of competent jurisdiction in any county in this State into or through which any such carrier operates to suspend or set aside any such order. Any party to any final judgment of any court in this State, in any proceeding by or against such Commission, may prosecute an appeal therefrom to the supreme court of this State in the manner now provided by law in civil cases, excepting as otherwise provided in this act. In all actions in the courts of this State authorized by this act the rules of evidence shall be the same as in the trial of civil cases, as now provided by law, excepting as otherwise provided in this act: And, provided also: That when, in any such cause, the cost of transportation is involved the carrier, or carriers, parties to such proceedings shall have the burden of establishing the cost of such transportation, over its line, as shall be involved in such proceeding. All such courts as shall obtain jurisdiction of any such action in which the Commission is a party shall speedily hear and determine the same to the end that the public interests shall not suffer: Provided, That no court shall issue any restraining order against the Commission until reasonable notice of the application therefor has been given, and a hearing has been had, and in case the Commission is entitled in any cause to a restraining order the same shall be issued by all such courts without requiring bond or surety from such Commission. In case any such court shall by its order, pending final hearing, suspend the operation of any rates estab-

lished by the Commission, it shall, in its order and the bond required to be filed therein, secure to the public, without further action, the rights and obligations which shall accrue, during the litigation, under such rates, if the same be finally sustained by the court.

#### **Discriminative Rates—Hearings—Orders.**

Sec. 7. (a) In addition to the authority vested in the Commission to determine what shall be just, reasonable and undiscriminative rates for future observance, upon complaint, filed as provided in this act, such Commission, whenever it is of the opinion that the rates charged by such carriers upon any kind of property in this State, or that the rates upon any carrier's line in this State, or that any class of rates in force upon the carrier's lines in this State, or any part thereof, are excessive, or unjust, or discriminative, or unduly prejudicial, or in violation of the laws of this State, shall have authority to, and it is hereby made the duty of such Commission to investigate the same, and for that purpose such Commission shall give to the carrier, or carriers interested therein, twenty days' notice of the purpose to make such investigation, stating what rates are to be investigated, and requiring the carrier so notified to appear at the time and place specified in such notice and be heard therein, if they so desire. At any such hearing any party interested in such rates shall be heard by the Commission, either in person or by counsel. After a full hearing therein the Commission shall determine what shall be just, reasonable, undiscriminative and non-prejudicial rates in the case under investigation, and shall recommend to the carriers interested therein an adoption and observance of such rates in the future, and shall deliver to each such carrier a certified copy of its findings and recommendations. If the carriers interested in such rates, and against which such order is made, shall not, within thirty days after receiving such certified copy, adopt and put in force the rates so recommended by the Commission, then and in such case the Commission may file in any circuit or superior court, having jurisdiction over the parties, an action in equity to compel said carrier or said carriers so failing to observe and enforce the rate so established. The proceedings in all such cases shall be subject to the rules and laws concerning civil procedure. An appeal from the judgment of such court may be taken to the supreme court by any party, upon questions of law only, which shall be stated by said circuit or superior court at the request of the parties, together with so much of the record as may be necessary to present the question for decision to the supreme court.



(b) In addition to the power and authority given to said Commission to enforce this act and the other laws of this State, as provided in this section, said Commission, as additional remedy, is also given power and authority upon complaint filed by any person, firm, corporation, or association, or any mercantile, agricultural or manufacturing society, or any body politic or municipal organization, and after a hearing thereon, to enter an order requiring any such carrier to comply with the duty, obligations and requirements of this act, and all other laws of the State concerning the duties, obligations and requirements of such carriers in the performance of their duties to the public as common carriers.

(c) The Commission shall have authority to grant rehearings in any case in which it has made a final order, or to alter, change or modify any final order made by it. All orders of the Commission, except as otherwise provided in this act, shall take effect within such reasonable time, not more than thirty days after entry thereof, and shall continue in force for such period of time, not exceeding two years, as shall be prescribed in the order of the Commission, unless the same shall be suspended, or set aside, or modified by the Commission, or be suspended, or set aside, or modified by a court of competent jurisdiction.

#### **Revision of Schedule, Etc.—Notice to Railroad.**

Sec. 8. (a) The said Commission shall as soon as any revision or classification, or schedule of rates or charges, or regulations, are adopted by it, furnish each railroad company affected thereby with a certified copy thereof in suitable form showing the revision, alteration, rule or regulation made by the Commission, to be delivered to each such carrier by depositing the same in a United States post-office, in a duly stamped and addressed envelope directed to some officer or agent of the carrier in this State.

(b) Nothing in this act shall authorize or empower the Commission, or any court of this State, to establish, change or modify any rate or charge for any service to be performed by any common carrier in this State, where the rate or charge is now established or which may hereafter be established by any valid law of this State.

#### **Examination of Books and Officers—Refusal—Penalty.**

Sec. 9. In any matter or controversy under investigation by the Commission, the commissioners, or either of them, or such person or persons as they may employ therefor shall have the right, at such

times as they may deem necessary, to inspect the books and papers or other documents of any railroad company subject to the provisions of this act, and to examine under oath any officer, agent or employe of such railroad company in relation to the business and affairs of the same; and said commissioners, or either of them, or such other person as may be employed by them as aforesaid, shall also have the right to exercise like powers as to all other persons or corporations having books, papers, documents or information bearing upon such investigation. If any railroad company, or such other person or corporation shall refuse to permit the commissioners or either of them, or any person authorized thereto as aforesaid, to examine its books and papers, or other documents as aforesaid, such railroad company or other persons or corporation shall, for each offense, pay to the State of Indiana not less than \$100.00 nor more than \$500.00 for each day it or he shall so fail or refuse: Provided, That any person other than one of said commissioners who shall make any such demands shall produce his authority, under the seal of said Commission, to make such inspection.

(a) Any officer, agent or employe of any railroad company or any other person or corporation who shall upon proper demand, fail or refuse to exhibit to the commissioners or either of them, or any person authorized to investigate the same, any book, paper, or other documents of such railroad company or any other person or corporation which is in the possession or under the control of such officer, agent or employe, shall be deemed guilty of a misdemeanor, and upon conviction in any court having jurisdiction thereof, shall be fined for each offense a sum not less than \$100.00 and not to exceed \$500.00.

[Approved February 28, 1905.]

### **Freight Classification—Passenger Rates—Schedules.**

Sec. 10. The classification of freight on all railroads in this State shall be uniform, and every such carrier shall print in plain type and file with the Commission, within sixty days after this act goes into effect, unless the Commission, for cause shown, shall extend such time, schedules which shall be open to public inspection, showing all rates, fares and charges for the transportation of passengers and property, and for sleeping and parlor car service and accommodations, and schedules of joint rates showing all joint rates, fares and charges for the transportation of passengers and property, and for sleeping and parlor car service and accommodations, and of any service in connection with all such transportation which it has

established, and which are in force at that time between all points in this State upon its lines, or any line controlled or operated by it, and upon its line or any one or more connecting lines, and such carriers shall file with such Commission, within such time, the classification of freight in force on its line. Such carrier shall also file with the Commission schedules of all such rates which it shall adopt and put into effect after such date, and in the manner here provided, at least two days before the same becomes effective: Provided, That the Commission, upon a showing made, can put such new rates into effect at once, and provided, also, that all such schedules of rates shall be in such form as shall be prescribed by the Interstate Commerce Commission. Every such schedule of joint rates so filed shall name the carriers parties thereto, and the carrier publishing and filing the same shall procure the concurrence of the connecting carriers thereto and deliver copies thereof to the connecting carriers so named. Every such carrier shall publish with and as a part of such schedule all rules and regulations that in any manner affect the rates charged, or to be charged, for the transportation of passengers or property, and all switching, terminal or transfer service, or for rendering any other service in connection with the transportation of persons or property, and the said carriers, within such time, shall file with such Commission copies of all switching tariffs and transfer charges in force at any terminal or junction point on its line in this State. A copy of said schedules, rules and regulations and switching tariff, for the use of the public, shall be filed and kept on file in every depot, station and office of such railroad where passengers or freight are received for transportation, and where an agent is regularly maintained, and in such form and place as to be accessible to the public and where they can be conveniently inspected. No change shall be made in any such schedules or tariffs after the same have been so filed, or in any classification of freight, except upon ten days' notice to the Commission, and all such changes shall be plainly indicated upon the schedule so filed, or by filing new schedules in lieu thereof, ten days prior to the time same are to become effective: Provided, The Commission, upon application by any carrier, may prescribe a less time within which a reduction in any such rates may be made. Copies of all such new schedules so changing rates shall be filed in every such depot, as herein provided, at least two days before the same go into effect. All schedules of rates and all rules and regulations for the transportation of passengers and property which shall be adopted by such Commission, as herein provided, or which shall be ordered observed

by any court, as provided in this act, shall also be filed in such depots, as herein directed. Upon demand therefor, by the Commission, every such carrier shall file with the Commission any schedule of rates in force on its line for the carriage of passengers or property in interstate commerce to enable such Commission to perform the duties devolved upon it by this act, and any such schedule shall be filed within five days after the same has been demanded.

(b) It is hereby declared to be unlawful for any such carrier to charge, demand or collect, directly or indirectly, for the transportation of passengers or property, or for any other service performed by it as a common carrier, any other or different rate, or rates, charge, or charges, than the rate named and fixed in the schedules and tariffs required to be and filed with such Commission, as provided in this act, or to charge, demand or collect, directly or indirectly, for any such service any other or different rate, or rates, charge, or charges, than that adopted by such Commission or ordered observed by any court, as provided in this act, and it is also hereby declared to be unlawful for any such carrier to transport any passengers or property between points in this State, or to perform any other service as a common carrier, without first having filed with such Commission, as required by this act, a schedule of the rates which it proposes to charge for any such service.

#### **Complaints—Interrogatories—Investigations.**

Sec. 11. The said Commission shall have power to elicit all information deemed by it necessary to the hearing and consideration of any complaint made to said Commission and shall have power to elicit from any railroad company or companies or any other person or corporation to be affected by any such investigation any and all information necessary to the consideration and determination of any and all questions over which the Commission shall have jurisdiction, and for said purpose said Commission may submit blanks provided for the purpose of eliciting such information or may submit written interrogatories to such railroad company or companies, or person or corporation, and said blanks shall be properly filled out and said interrogatories so answered as to answer fully and correctly each question therein propounded, and in case they are unable to answer any question they shall give a satisfactory reason for their failure, and their said answers, duly sworn to by the proper officers of said company or corporation or by said person, shall be returned to said Commission at its office in the city of Indianapolis within the time fixed therefor by the Commission in its order, or said Commission

may use such other means or methods of securing such information as may be deemed expedient by it.

(a) If any such carrier, its officer or employee, or any other person or corporation, their agents or employees, as aforesaid, shall fail or refuse to fill out and return any blank or to answer any interrogatories as above required, or fail or refuse to answer any questions therein propounded, or give a false answer to any such questions, or shall evade the answer to any such question, such carrier, officer, employee or person shall be guilty of a misdemeanor and shall, on conviction thereof, be fined for each day he or it shall fail to perform such duty, after the expiration of the time aforesaid, a penalty of five hundred dollars (\$500.00), and the Commission shall cause a prosecution therefor in the proper court; and a penalty of a like amount shall be recovered in a civil action from the railroad company or other corporation or employer when it appears that such officer or employee acted in obedience to the directions of such carrier in his failure to comply with the order of the Commission.

(aa) Such Commission, in all investigations being held by it, and in all proceedings pending before it, shall have authority to require any such carrier, other party, or corporation, to produce before such Commission, to be used as evidence in such investigation, or proceedings, any book, record, contract, letter, paper or other document in the possession, or under the control, or subject to the order of any such carrier, other party, or corporation, which is necessary, or proper to be considered in evidence in any such proceedings, and in case any such carrier, or other party, or corporation, shall fail, or refuse, to produce the same, such carrier, or other party, or corporation, shall forfeit and pay to the State of Indiana a sum not less than one hundred dollars nor more than five hundred dollars, to be collected as provided in this act.

(b) The Commission shall make an annual report to the governor which shall be transmitted to him on or before the first Wednesday in January. The report shall include such statements, facts and explanations as will disclose the actual working of the system of railroad transportation in its bearings upon the business and prosperity of the State; such suggestions as to its general railroad policy or any part thereof, or the condition, affairs or conduct of any railroad corporation as may seem to it appropriate and such tables and abstracts of all the returns required to be made by railroad corporations, as it considers expedient. Such report shall also include a complete account of the transactions and proceedings of the Commission, together with a full detailed statement of its receipts and

expenditures, and shall be published as the reports of other State officers and boards. The Commission shall also publish, with annotations, for the information of the public, the laws of this State concerning the carriers subject to this act.

(c) When on the complaint of any interested person or corporation, the said Commission shall, on the investigation of such complaint, be convinced that the freight rates on any railroad in Indiana, engaged in interstate commerce, are excessive or levied or laid in violation of the interstate commerce law or the rules and regulations of the Interstate Commerce Commission, the superintendent, agent or other official of the said railroad companies shall be notified in writing of the facts and requested to reduce or correct them, as the case may be. When the rates are not changed or the proper corrections are not made according to the request of the Commission, the latter is authorized and empowered to notify the Interstate Commerce Commission and to apply to it for relief.

(d) Whenever any property is received by any common carrier subject to the provisions of this act to be transported from one place to another within the State, it shall, upon demand of the shipper, issue a receipt or bill of lading therefor, naming therein the classification of said freight and the rate of freight at which the same is to be carried, and it shall be unlawful for such common carrier to limit by contract or otherwise the negotiability of any bill of lading [lading]; nor shall any carrier limit or change its common law liability by contract or otherwise, as to its responsibility for the negligent act of its agents and servants with reference to property in its custody as a common carrier: Provided, That nothing herein contained shall be so construed as to abridge or in anywise lessen the liability of any such carrier as it now is under existing laws. All statements rendered for transportation charges shall show character of shipments, weight, rate, and charges, before demanding payment.

#### **Witnesses.**

Sec. 12. For the purposes of this act the Commission shall have power to require, by subpoena, the attendance and testimony of witnesses and the production of all books, papers, tariffs, contracts, agreements and documents relating to any matter under investigation, or in any proceeding pending before it. Such attendance of the witnesses and the production of such documentary evidence may be required at any designated place of hearing in this State. And in case of disobedience to a subpoena, the Commission, or any party to a proceeding before the Commission, may invoke the aid of any

circuit court of this State in requiring the attendance and testimony of witnesses and the production of books, papers and documents under this provision. And any of the circuit courts of this State, within the jurisdiction of which any such inquiry or hearing is carried on, may, in case of contumacy or refusal to obey a subpoena issued to any such carrier subject to the provisions of this act, or other person, issue an order requiring such carrier, or other person, to appear before such Commission and produce books and papers, if so ordered, and give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. The claim that any such testimony, or evidence, may tend to criminate the person giving such evidence shall not excuse such witness from testifying, but such evidence, or testimony, shall not be used against such person on the trial of any criminal proceeding, nor shall any such witness so compelled to testify against himself be thereafter prosecuted for any crime concerning which he has been compelled to give testimony. Instead of requiring the personal attendance of any witness, his deposition may be taken at the instance of a party in any proceeding or investigation pending before the Commission at any time after such investigation has been commenced, or after any such complaint has been filed and notice thereof duly served. The Commission may also order testimony to be taken by deposition in any proceeding or investigation pending before it at any stage of such proceeding or investigation. Such deposition shall be taken, certified and published in the manner now provided by the laws of this State concerning the procedure in civil cases, or in such other manner as the Commission, in its order, may direct. And any person whose deposition is being so taken may be compelled to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear to testify and produce documentary evidence before the Commission as hereinbefore provided.

#### **Penalties.**

Sec. 13. (a) Every carrier subject hereto which shall knowingly and wilfully do any act which is herein forbidden and declared to be unlawful, and every carrier subject hereto which shall knowingly and wilfully fail to do any act herein required to be done by it, the failure to perform which is herein declared to be unlawful, shall forfeit and pay to the State of Indiana a penalty of not less than one hundred nor more than one thousand dollars, to be collected as provided in this act.

(b) Every such carrier which shall fail to comply with any final order made against it by such Commission in any proceeding pending before such Commission, in which any such carrier is a party, unless such order is suspended, annulled, or set aside by some court of competent jurisdiction as provided in this act, shall forfeit and pay to the State of Indiana for each violation of any such order a penalty of not less than one hundred nor more than one thousand dollars, to be collected as provided in this act.

(c) Every carrier subject to this act which shall hereafter knowingly and wilfully charge, collect, demand or receive from any person, company, firm, or corporation, directly or indirectly, a greater or less rate, charge or compensation, for the transportation of persons or property, or for any service performed, or to be performed by any such carrier, than that fixed and specified in the schedule of rates filed with such Commission, as provided in this act, or the schedule of rates fixed and adopted by such Commission, as provided in this act, or the schedule of rates ordered observed by any court of this State, as provided in this act, shall be guilty of a misdemeanor, and upon conviction thereof in any court of this State having jurisdiction, shall be fined in a sum not less than five hundred nor more than five thousand dollars.

#### **Unjust Discriminations Defined—Penalties—Passes.**

Sec. 14. If any railroad subject hereto, directly or indirectly, or by any special rate, rebate, drawback or other device, shall charge, demand, collect or receive from any person, firm or corporation a greater or less compensation for any service rendered or to be rendered by it than it charges, demands, collects or receives from any other person, firm or corporation for doing a like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances and conditions, such railroad shall be deemed guilty of unjust discrimination, which is hereby prohibited.

(a) It shall also be an unjust discrimination for any such railroad company to make or give any undue or unreasonable preference or advantage to any particular person, firm, corporation or locality, in connection with the transportation of any persons or property, or to subject any particular kind of traffic or any particular person, place or locality to any undue or unreasonable prejudice, delay or disadvantage in any respect whatsoever.

(b) Every railroad company which shall fail or refuse to receive and transport without unreasonable delay or discrimination the pas-



sengers, tonnage and cars, loaded or empty, of any connecting carrier, and every railroad company which shall fail or refuse to transport and deliver without unreasonable delay or discrimination any passengers, tonnage or cars, loaded or empty, destined to any point on or over the line of any connecting line of railroad, shall be deemed guilty of unjust discrimination: Provided, That perishable freights of all kinds and live stock shall have precedence of shipment.

(c) It shall also be unjust discrimination for any carrier subject hereto to charge or receive any greater compensation in the aggregate for the transportation of like kinds of property, or passengers, for a shorter than for a longer distance over the same line, in the same direction, the shorter distance being included in the longer: Provided, however, That in cases where two or more carriers have lines between common points in this State, and the line of one of such carriers is shorter than the other, then the carrier having the longer line between any two such common points may meet the rates between such common points which are established by the route having the shorter line: Provided, There is bona fide and actual competition between such two routes for the business between such common points: Provided, further, That upon application to the Commission it may, for the purpose of preventing manifest injury, authorize any such carrier to charge less for longer than for shorter distances for transporting persons and property: Provided, That no manifest injustice shall be imposed upon persons, property and places at intermediate points: Provided, further, That nothing herein shall be so construed as to prevent the Commission from approving what are known as "group rates" on any of the railroads in this State.

(d) Any railroad company violating any provision of this section shall be deemed guilty of unjust discrimination, and shall for such offense pay to the State of Indiana a penalty of not less than \$500.00, nor more than \$5,000.00, to be recovered in a civil action instituted for that purpose in a court of competent jurisdiction.

(e) No carrier subject to the provisions of this act shall directly or indirectly issue or give any free ticket, free pass, or free transportation for passengers, freight or express, or for service or accommodation in any sleeping car, parlor car or dining car, except to its employes and members of their families, and the widow and dependent members of the families of deceased employes, its officers, agents, surgeons, physicians and lawyers and members of their families; to ministers of religion, traveling secretaries of the Young

Men's Christian Association and the Young Woman's Christian Association, inmates of hospitals and charitable and eleemosynary institutions, and persons exclusively engaged in charitable and eleemosynary work; to aged, destitute and homeless persons, and to such persons when transported by charitable societies or hospitals, and the necessary agents employed in such transportation; to inmates of the national homes, or State homes for disabled, volunteer soldiers, and of soldiers' and sailors' homes, including those about to enter and those returning after discharge, and boards of managers of such homes; to necessary caretakers of live stock, poultry, fruit and vegetables, during the transportation of the same; to employes of sleeping cars, express cars, and to linemen and other employes and officers of the telegraph and telephone companies when traveling on business incident to telegraph or telephone construction, maintenance or operation; to railway mail service employes, to newsboys on trains, baggage agents, witnesses attending any legal investigation in which the carrier is interested, persons injured or killed in railroad accidents, and their attendants and physicians and nurses attending such persons; to contractors, and their employes while performing work, under written contract, on the line of the carrier by which the transportation is given, and to publishers of newspapers for printing and advertising performed under written contract: Provided, That no such exception shall apply to a public officer of this State, other than those mentioned and notaries public, and provided that this provision shall not be construed to prohibit the interchange of passes for the officers and agents and employes of such carriers and their families, nor to prohibit any such carrier from carrying passengers, freight or express free with the object of providing relief in cases of general epidemic, pestilence or other calamitous visitations, nor to prohibit the free carriage by any such carrier, of children less than five years old when accompanied by an adult: Provided, further, That the provisions of this paragraph shall not apply to any pass legally issued for the year 1907, or any part thereof, heretofore issued and given, nor shall this provision apply to parties carried for the purpose of inspecting the carrier's lines with a view to investing in its securities or the improvement of its property, or to policemen or other peace officers while in uniform within their respective towns and cities.

**False Billing, Etc.—Rebate—Penalties.**

Sec. 15. (a) If any agent, officer or employe of any such carrier shall intentionally, directly or indirectly, by any special rate, re-

bate, drawback, or by means of false billing, false classification, false weighing, or by any other device whatsoever, charge, demand, collect or receive from any person, firm or corporation, a greater or less compensation for any service rendered, or to be rendered, by any such carrier for the transportation of persons or property, or for any other service performed by such carrier than that prescribed in the published tariffs then in force and on file with the Commission, or which have theretofore been established by such Commission, or ordered to be observed by any court, as provided in this act, then and in such case any such agent, officer or employe shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than one hundred dollars nor more than two thousand dollars, to which may be added imprisonment in the county jail not exceeding one year, in the discretion of the court or jury trying the cause.

(b) If any person, or the agent or employe of any person, or any member of any firm, or any corporation, or any officer, agent, or employe of any firm or corporation shall intentionally accept or receive any rebate or concession in respect to the transportation of persons and property by any such carrier, wholly within this State, or for any other service performed by such carrier in connection therewith whereby any such persons or property shall, by false billing, false classification, false weighing, or any other device whatsoever, be transported [transported] at a less rate than that prescribed in the published tariffs then in force and on file with the Commission, or which have theretofore been established by such Commission, or ordered to be observed by any court, as provided in this act, then every such person shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than one hundred dollars nor more than two thousand dollars, to which may be added imprisonment in the county jail not exceeding one year, in the discretion of the court or jury trying the cause.

#### **Unlawful Act—Civil Damages.**

Sec. 16. In case any railroad company subject to this act shall do, cause to be done, or permit to be done, any matter, act or thing in this act prohibited, or declared to be unlawful, or shall omit to do any court of competent jurisdiction in any county into or through road company shall be liable to the person or persons, firm or corporation injured thereby for the damages sustained in consequence of such violations, and in case said railroad company shall be guilty of extortion or discrimination as by this act defined, then in addi-

tion to such damages, such railroad company shall pay to the person, firm or corporation injured thereby a penalty of not less than \$100.00 nor more than \$500.00, to be recovered by civil action in any court of competent jurisdiction in any county into or through which such railroad may run: Provided, That such company may plead and prove as a defense to the action for such penalty that such overcharge was unintentionally and innocently made through a mistake of fact: Provided, That such recovery as herein provided shall in no manner affect a recovery by the State of any penalty provided for such violation.

[Approved February 28, 1906.]

### **Violation of Duty—Penalty—Civil Action.**

Sec. 17. If any railroad company as aforesaid shall wilfully violate any other provision of this act and shall do any other act herein prohibited, or shall fail or refuse to perform any other duty enjoined upon it for which a penalty has not herein been provided, for every such act of violation it shall pay the State of Indiana a penalty of not more than \$1,000.00, to be recovered in a civil action to be instituted for that purpose in any court of competent jurisdiction.

[Approved February 28, 1905.]

### **Recovery of Penalties.**

Sec. 18. All penalties and forfeitures provided for in this act, except as otherwise provided herein, shall be recovered and suits therefor shall be brought by and in the name of the Railroad Commission of Indiana, for the use of the State of Indiana, in any circuit or superior court of any county into or through which any such carrier may operate. In case of a recovery the court or jury trying the cause shall allow to the Commission a docket fee of fifty dollars (\$50.00) for each penalty recovered, to be applied to attorney's fees and expenses of the litigation. All penalties recovered by the State, under this act, shall be paid into the treasury of the State.

### **Certified Copies of Rates, Rules, Etc.—Fees.**

Sec. 19. Upon application of any person, the Commission shall furnish certified copies of any classification, rates, rules, regulations or orders, and such certified or printed copies published by authority of the Commission shall be admissible in evidence in any suit and sufficient to establish the fact that any charge, rate, rule, order or classification therein contained and which may be at issue in the

trial is the official act of the Commission. A substantial compliance with the requirements of this act shall be sufficient to give effect to all the classifications, rates, charges, rules, regulations, requirements and orders made and established by the Commission, and none of them shall be declared inoperative for any omission of a technical matter in the performance of such act. The secretary of the commission shall charge for all such certified copies and transcripts, except those ordered delivered by direction of the Commission, such sums as the Commission may order, and all funds coming into the hands of the secretary on account of [such] any such charges made by him, and from all other sources and due to the Commission, shall be by the secretary daily paid into the State treasury.

#### **Enforcement—Prosecution.**

Sec. 20. The Commission shall have authority to inquire into the management of the business of all common carriers subject to the provisions of this act, and shall keep itself informed as to the manner and method in which the same is conducted, and shall have the right to obtain from such carriers full and complete information necessary to enable it to perform the duties and carry out the objects for which it was created. And the Commission is hereby authorized and required to enforce this act, and all the other laws of this State, the enforcement of which is devolved upon such Commission, and such other laws of this State as shall prescribe the duties and obligations and regulate the conduct of the carriers subject hereto in their dealings with the public and each other as common carriers of passengers and property in this State, and to enable the Commission so to do it is hereby given full power and authority to institute and prosecute in its name any appropriate action at law, or suit in equity, in any circuit or superior court of this State, against any such carrier to compel it to observe the requirements of this act, and all other laws of this State, and the orders of the Commission duly made pursuant to this act, or any other law of this State, and all orders and judgments of any court in this State made pursuant to this act; or to restrain any such carrier from the further continuance of any act or practice suffered or authorized by it in violation of the provisions of this act, the other laws of this State, the orders of the Commission, or of any court made pursuant to this act, and the costs and expenses of such proceedings shall be audited and approved by the auditor of State, and paid as provided in this act.

### **Terms Defined—To Whom Act Applies.**

Sec. 21. The provisions of this act shall apply only to the transportation of passengers and property between points within this State, and to the receiving, switching, delivering, storing and handling of such property, and to all charges connected therewith, including icing and mileage charges. This act shall apply to all corporations, individuals, associations of individuals, their lessees, trustees, or receivers, appointed by any court that now, or may hereafter own, operate, manage, or control any railroad, electric interurban, or suburban railroad, or part of any such railroad as a common carrier in this State, or cars, car companies, freight and freight line companies, private tracks and sidings, when controlled or used by any such common carriers, or other equipment used thereon, or bridges, terminals, or side tracks, or any docks, or wharves, or storage elevators used in connection therewith, whether owned by such railroad, or otherwise. And the provisions of this act shall also apply to all such corporations, companies, individuals, associations of individuals, their lessees, trustees, or receivers, appointed by any court, as shall be engaged in the express business or sleeping car business, and this act shall apply also to all express companies and sleeping car companies. The terms "carrier" or "carriers," "railroad," "railroad company," or "railway" or "railway company," whenever used in this act, shall for the purposes of this act and except as otherwise herein provided be held to mean and refer to all such railroads, electric interurbans, or suburban railroads, express companies and sleeping car companies so subject to the provisions of this act. The provisions of this act shall not apply to street railroads engaged solely in the carriage of passengers within the limits of any cities or towns in this State. The provisions of this act shall not apply to any street railroad company in so far as it may engage in the carriage of passengers in its local town or city cars within the limits of any towns or cities of this State or their suburbs.

### **Right of Action.**

Sec. 22. This act shall not have the effect to release or waive any right of action by the State or any person for any right, penalty or forfeiture which may have arisen, or may hereafter arise under any law of this State; and all penalties accruing under this act shall be cumulative of each other, and a suit for or recovery of one shall not be a bar to the recovery of any other penalty.

**Accidents—Reports—Inquiries—Crossings—Depots.**

Sec. 23. It shall be the duty of said Commission to keep informed as to the condition of railroads and railways and the manner in which they are operated with reference to the security and accommodation of the public, and as to the compliance of the several corporations with their charters and the laws of the State.

(a) Every railroad company subject hereto shall report to the Commission within five (5) days after it has occurred, every accident and the general cause thereof, involving loss of life, or serious injury to passenger or employe, and within twenty days after such accident the company shall make a full report of the cause thereof to the Commission, and the Commission shall investigate in such manner and by such persons as it may deem best, the causes of any accident on any railroad involving loss of life, and every corporation at all times, shall furnish to the Commission, its appointees, or its inspectors any information relative to such accidents. Such reports and information shall not be used in the trial of any suits for damages arising out of said accidents, and the Commission shall not give publicity to such information if in its judgment the public interests do not require it. After such investigation, the said Commission shall make a report to the railroad company of its conclusion and recommendations regarding such accidents and the causes thereof, and the proper steps to be taken by the railroad company to prevent like accidents, and unless the railroad company shall in a reasonable time comply with and carry out said recommendations, said Commission shall make the same public, if it shall deem best so to do, by publishing the same in any newspaper or newspapers in this State, or in the locality where the accident took place.

(b) Whenever said Commission shall secure reliable information, or complaint shall have been made, or, because of reports made by its inspectors, shall have reason to believe, that any carrier in this State does not keep its road or equipment in proper condition and repair for the security of its employes or the public, or that any carrier as now required by law does not maintain adequate and suitable passenger depot buildings and platforms, said depots with the passageway to the adjacent street to be well lighted, to be kept well heated and in approved sanitary condition, supplied with wholesome water and closets for men and women, and kept open at least one hour before and fifteen minutes after the arrival of each passenger train stopping at said station; or that any carrier does not keep its passenger cars well cleaned and in good sanitary condition, well lighted and properly heated, and supplied with closets

for men and women; or that any carrier does not keep and maintain adequate and suitable freight depots, buildings, switches and side tracks for the receiving, protecting, handling, forwarding and delivery of all freight offered for shipment or received at said stations; or that any carrier or carriers do not so run, operate or schedule their passenger trains as to make reasonable and proper connections at places where they intersect each other; or that there is a dangerous defect in connection with the operation of any railroad or in any railroad bridge, culvert, curve, embankment, water tank, crane, frog, railroad or wagon road crossing, ties or track, motive power, stations, rolling stock, machinery or in any roadbed or ground used in connection with the operation of any railroad, or any dangerous neglect or fault in the construction, equipment or management of any railroad within the State of Indiana, it shall be the duty of the Commission to cause such investigation to be made as it may deem necessary, and when such investigation shall have been made, said Railroad Commission shall make a report to the manager or superintendent of the railroad company. In said report and recommendations the Commission shall make an accurate statement of the time such examination was made, of the exact location, character and extent of such defects, or omissions, if any such shall have been found, and shall also recommend such reasonable changes and improvements, additions, buildings and accommodations, as are, in the opinion of the Commission, necessary to remedy such faults, neglects, requirements or defects. Such recommendations shall set out specifically a reasonable time within which such improvements or changes, or additions, shall be made by the railroad company. And if they are not so made within said time so specified, then the Commission, if it deem it best so to do, may file a bill in equity in some circuit or superior court of the state having jurisdiction of the carrier to require compliance with its order.

(c) If two or more railroad corporations whose tracks cross each other at the same level, agree to separate the grades, they may apply to the commission, which shall thereupon determine when, and in what manner and by which corporation said work and each portion of it shall be done, and shall apportion all charges and expenses caused by making such alterations and all future charges for keeping the necessary structure connected therewith in repair, among said corporations. For said purpose, the corporations may, under the direction of the Commission, make all necessary changes in the location, grade and construction of said railroad, and so far



as may be necessary may take additional land therefor, and may raise, lower or otherwise change, any and all highways; and in the exercise of such powers said corporations and any person who sustains any damages thereby, shall have all the rights, privileges, and remedies, and be subject to all the duties, liabilities and restrictions provided by law in the case of land taken by railroad corporations.

(d) If one of two or more railroad corporations whose tracks cross each other at the same level, desires to separate the grades, said railroad corporation may file its petition with the Commission, with blue prints and maps attached, setting out in detail how such crossing can best be made; thereupon it shall be the duty of the Commission to give notice to the corporation or corporations complained of, as in other cases, and such petition shall be tried, and the Commission shall determine whether or not said grades shall be separated, in what manner and by which corporation said work and each portion of it shall be done, and shall apportion all charges and expenses caused by making such alterations, and all future charges for keeping the necessary structure connected therewith, in repair among said corporations. For said purpose, the corporations may, under the direction of the Commission, make all necessary changes in the location, grade and construction of said railroads, and so far as may be necessary may take additional land therefor, and may raise, lower or otherwise change any and all highways; and in the exercise of such powers said corporations and any person who sustains any damage thereby shall have all the rights, privileges and remedies, and be subject to all the duties, liabilities and restrictions provided by law in the case of land taken by railroad corporations.

### SHIPPERS' BILL.

AN ACT touching common carriers over railroads in this state and matters connected therewith.

[H. 234. Approved March 11, 1907.]

### Railroad Commission—"Shippers' Bill."

Section 1. Be it enacted by the general assembly of the State of Indiana, That the provisions of this act shall apply to all such corporations, foreign or domestic, and to the receivers and lessees thereof as shall be engaged in the business of a common carrier of freight in carload lots or less for hire on railroads between

points within this state. The provisions of this act shall also apply to all carriers engaged in the performance of transfer or switching service on and over any terminal, transfer, belt or switching railroad in this state: Provided, That the provisions of this act shall not be so applied as to regulate or control interstate commerce, or to in any manner affect or regulate the charges imposed therefor. It is further provided that the provisions of this act shall not apply to any carrier or carriers within this state whose income from freight business does not equal thirty-three and one-third per cent. (33 1-3) of their gross revenue.

#### **Rolling Stock—Supply.**

Sec. 2. All carriers subject to the provisions of this act are required to provide and to maintain in serviceable condition the number of suitable and substantial freight cars necessary to promptly supply the demands on their respective lines in this state for the prompt and expeditious shipment of all freight in carload lots. All such carriers are also required to provide and maintain in serviceable condition the number of suitable and substantial locomotives, and other appliances and facilities necessary to promptly and expeditiously transport from point of origin to destination in this state all freight in carload lots which shall originate on their respective lines in this state and be tendered for transportation.

#### **Freight Movement—Delay—Forfeiture.**

Sec. 3. All carriers subject to the provisions of this act are required, when any carload freight has been properly loaded and proper shipping instructions have been delivered, to move the same forward to destination, if on its line, or to the point of junction with the connecting carrier named in the shipping directions, not less than average of fifty miles every twenty-four hours, Sundays and legal holidays excepted: Provided, That twenty four hours shall be allowed for movements through the terminals at point of origin and for passing through any transfer or terminal en route. Every such carrier shall receive from its connecting lines at junction points, or at point of interchange agreed upon between them, all carload freight tendered there for forwarding on its lines and shall move the same forward to destination, or to the connecting carrier named in the shipping directions an average of not less than fifty miles every twenty-four hours, Sundays and

legal holidays excepted: Provided, That twenty-four hours shall be allowed for the movement through the terminal at point of origin and for passing through any transfer or terminal en route. In case any such carrier shall fail, unless prevented by wrecks, or strikes, or accident to tracks, to forward carload shipments as provided in this section, then every such carrier shall forfeit and pay to the consignee of such freight the sum of five dollars per car for each twenty-four hours or major part thereof that the same has not been moved forward as required by this section, and the sum due on account of any such forfeiture may be deducted from the freight charges following any such shipment. All shipments of freight in less than carload lots shall be moved by the carrier at the same rate of speed as required by this section for freight in carload lots, except that forty-eight (48) hours shall be allowed for getting out of terminal at point of origin, and for passing through any terminal or transfer en route. The penalty for failure to so move shipments of freight in less than carload lots shall be an amount equal to twenty-five (25%) per cent. of the freight charged on such shipment for every day's delay or fraction of a day.

**Delivery—Forfeiture—R. R. Commission—Hearing.**

Sec. 4. All carriers subject to the provisions of this act shall deliver to any consignee on his private track, or track used by him for loading or unloading, or on their public delivery track and shall receive from any connecting carrier, at any terminal point in this State, for the purpose of delivery to points located on its line at such terminal, or to points reached over or through its line at such terminal, all carload freight tendered it by any such connecting line, and shall deliver the same to the consignee on his private track, or on its tracks, or to the connecting line on its tracks at such terminal, within twenty-four hours after the same is tendered. In case any such carrier shall fail to so deliver any such car it shall forfeit and pay to the consignee the sum of five dollars for each twenty-four hours or major part thereof that it shall fail to make delivery as required by this section: Provided, That wrecks or strikes, or accident to tracks shall be a sufficient excuse for failure to make such delivery. The sum due on account of any such forfeiture may be deducted from the freight charges following any such shipment: Provided, That the Railroad Commission of Indiana, after a full hearing of all parties interested, may relieve any such carrier from so switching carload freight at terminal points,

which is to be delivered upon its public delivery tracks at such terminal when it appears that the facilities of such carrier at such point are only sufficient to care for the business originating and terminating on its line at such point: And, provided, also, That every such carrier shall be entitled to impose and collect a reasonable transportation charge for the performance of the service required by this section.

#### **Car Service—Discrimination.**

Sec. 5. Every carrier subject to the provisions of this act shall furnish to all parties who may apply therefor, as provided in this act, suitable cars for the transportation of all kinds of freight in carload lots. If the car equipment of the carrier is not adequate at any time to supply the whole number of cars demanded by applicants for immediate use, then the carrier shall distribute its available equipment between the applicants in proportion to their respective requirements for immediate use, and such distribution shall be made without discrimination between shippers or between competitive and noncompetitive points, subject to such rules and regulations as may be provided by the Railroad Commission of Indiana: Provided, however, That preference shall be given to the shipment of live stock and perishable property.

#### **Record of Car Service—Form.**

Sec. 6. After sixty days from the date this act goes into effect, each carrier subject hereto shall provide and permanently keep at each billing station on its line in this State where it handled [handles] carload shipments, a substantial bound book, which shall be in such form as the Railroad Commission of Indiana shall prescribe, and shall be suitable for permanently recording and preserving the information required by this section, and such other information as such Commission may prescribe concerning the subject-matter of this act. Any applicant for cars for use at any such station shall record in such book the date of his application showing the number and kind of cars required, when required, for what kind of loading, and the point of destination, and such other information as the said Commission shall prescribe. In case it is not practical or possible for the applicant to apply in person, then application may be made in writing or by wire, and if made in writing or by wire then one authentic copy shall be furnished the local agent for filing in his office, which copy shall constitute a part

of the lawful record. Each carrier shall furnish to the applicant, in not less than forty-eight hours after six o'clock p. m. of the day of filing such application, the cars so required, unless the cars are not so soon required, in which case they shall be furnished when required. The carrier's agent at every such station shall record in such book the date the cars were furnished and billed out, and such other information as such Commission may prescribe in the form for such record, and every such record, or a properly authenticated copy thereof shall be competent evidence in all the courts of this State and before the Railroad Commission of Indiana concerning the matters required to be recorded therein. Any such carrier shall not be required to furnish cars for shipment unless applied for as provided for in this section: Provided, however, That the distribution and delivery of coal cars to coal mines on such carriers' lines in this State shall not be controlled by the provisions of this section.

#### **Car Service Record—False Entry—Penalty.**

Sec. 7. It shall be unlawful for any person, or the agent or employe of any person, carrier, corporation or partnership to make any false entry in the record provided for in section 6 of this act, or to alter, change or mutilate any entry therein made, without notice to and with the consent of the other party interested therein. It shall also be unlawful for any such person to record in such record a demand for cars not required, or for more cars than are required, or to duplicate any demand for cars previously ordered and not then furnished. Any such person who shall violate any provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty-five dollars nor more than fifty dollars.

#### **Reciprocal Demurrage—Freight Cars.**

Sec. 8. Every carrier subject to the provisions of this act which shall fail and neglect to furnish cars to applicants in accordance with the application therefor, and as provided in section 6 of this act, shall forfeit and pay to the applicant the sum of one dollar for each car for each twenty-four hours, or the major part thereof, that the delivery of the same shall be delayed beyond the date when the cars were required to be furnished: Provided, That such forfeiture shall not accrue if the carrier shall show to the satisfaction of the court, or jury, trying the cause, that it did not have the cars

in its control at the time they were required for delivery, and that for a reasonable time prior to the failure and at the time of the failure it had made, and then made a bona fide and reasonable effort to supply its line with the necessary car equipment to care for the traffic then on its line, and such future traffic as it could reasonably anticipate would be offered for shipment.

### **Coal Cars—Distribution—Hearing—Rules.**

Sec. 9. At the request of any carrier, coal mine operator or any other party interested therein, the Railroad Commission of Indiana, after five days' notice to the interested carrier and the coal mine operators on any carrier's line in this State, and after a full hearing concerning the same the Railroad Commission of Indiana shall adopt and promulgate rules and regulations for the distribution by the carrier of empty coal cars to the coal mines on the line of any carrier in this State subject to the provisions of this act. The rules and regulations promulgated by such Commission shall not conflict with the provisions of section 5 of this act. The Commission, by such rules and regulations, shall prescribe the manner in which the cars shall be applied for, the manner in which the capacity and output of the mines shall be ascertained, and the manner in which empty cars shall be distributed and delivered, and the Commission shall adopt such other rules and regulations concerning such subject as shall be necessary to secure a fair and equitable distribution of cars without discrimination, so that each mine, in case of car shortage, shall be secured the maximum amount of working time to which it is entitled, after taking into consideration the capacity and output and the shipping orders of all the mines and the available equipment on the line for use in their operation. If conditions are the same the Commission may adopt the same rules and regulations for all carriers having coal mines on their lines, or different rules and regulations for different lines, as the differing conditions may require. The rules and regulations so adopted shall go into effect upon the date fixed therefor by the Commission and shall be observed by the carriers and all other persons until set aside or modified by the Commission, and the Commission is given authority at any time, upon application by any party interested, to modify or set aside any such rules and regulations so adopted, and to adopt other rules and regulations as the necessities of the case may require: Provided, That any party interested in such rules and regulations may file a bill in equity

against the Commission in any court of competent jurisdiction to set aside or annul any rule or regulation so adopted by the Commission.

#### **Reciprocal Demurrage—Coal Cars.**

Sec. 10. Every such carrier which shall fail, neglect or refuse to deliver to any coal mine operator on its line empty coal cars for use at such mine in accordance with such provisions of this act as concerns the delivery of such cars, and in accordance with the rules and regulations of the Railroad Commission of Indiana, adopted pursuant to this act, shall forfeit to such coal mine operator the sum of two dollars per day for each car for each day, or major part thereof, that the same remains undelivered.

#### **Confiscation of Coal.**

Sec. 11. When for any reason coal in transit is confiscated by the carrier immediate notice shall be given both consignor and consignee of such confiscation, and any carrier failing or refusing to give such immediate notice shall on settlement pay 50 cents per ton over and above contract price to consignee for such coal confiscated.

#### **Forfeiture or Demurrage—Collection in Court.**

Sec. 12. The forfeiture accruing under this act may be collected in any court of competent jurisdiction in any county in this State into which the carrier operates, and in case the plaintiff recovers, the court or jury trying the cause shall allow the plaintiff a reasonable sum for his attorney's fees. The accruing and collection of any such forfeiture shall not preclude any such party from collecting actual damages in excess thereof which he shall have sustained on account of any such delay in transportation or failure to furnish cars as required by this act.

#### **Freight Rates for Coal.**

Sec. 13. Every such carrier, and its connections, having coal mines located on the line of railroad operated by it in this State, shall, upon request therefor, publish and put in force on its line, and file with the Railroad Commission of Indiana in the manner now provided by law, or in such manner as may hereafter be provided by law, reasonable and just rates of freight for the transportation of coal from such mines to points reached by its line, and

shall likewise publish and file with said Commission just and reasonable joint rates of freight on such commodity to any point in this State reached through or over one or more connecting lines in this State. And it shall be lawful for such carriers, after obtaining the permission of the Railroad Commission of Indiana so to do, in the making of such rates, to provide for the transportation of coal to be used for manufacturing purposes and steaming purposes, at a reasonably less rate than the rates which such carriers may provide for the transportation of coal to be used solely for domestic consumption. Upon application therefor, as provided for in this act and the rules of the Railroad Commission of Indiana, promulgated in accordance with this act, every such carrier having such mines on its line shall furnish cars for transportation of coal to any such point in this State on or off its line, in accordance with such rates, so published, and every such originating and connecting carrier shall promptly receive and transport such coal, as provided in this act. Each of the one or more connecting carriers which shall receive any such shipment of coal at any junction point shall forward the same to destination, and return the car over the route of shipment, either empty, or loaded, to some point on the initiating line, and every such car shall be so transported and returned to the junction with the initiating line not less than an average of fifty miles each twenty-four hours or major part thereof, less a reasonable time to be allowed for switching at terminal points and for unloading: Provided, That wrecks, or strikes, or accident to tracks, or delay in unloading, shall be a lawful excuse for failure to return the car, but neither of such causes shall excuse any such carrier for a greater number of days' delay than was actually occasioned thereby. Nothing in this section shall be held in any manner to affect the regulations between any such connecting carriers as to the per diem charges which may be agreed upon between them for the use of cars while off the line of the owning carrier. Any carrier which shall violate any provision of this section shall forfeit and pay to the State of Indiana a penalty of not less than five hundred dollars nor more than one thousand dollars for each offense, to be collected in an action to be prosecuted by and in the name of the Railroad Commission of Indiana for the use and benefit of the State of Indiana in any circuit or superior court of any county in this State, through or into which the offending carrier operates. In case any such carrier, or carriers, refuse to fix such rates as provided in this section, or fail to agree upon the division of any such joint rates, then the Railroad Com-



mission of Indiana shall fix such rates, and the division thereof, in the manner now provided by law, or in such manner as may hereafter be provided by law.

### **Investigations.**

Sec. 14. The Railroad Commission of Indiana shall have authority to inquire into such of the management and business of such carriers as is regulated by this act, and shall keep informed as to the manner and method in which the same is conducted, and shall have the right to obtain from such carriers, their agents, officers and employes, full and complete information to enable it to perform its duties under this act, and such Commission is hereby authorized and required to execute and enforce the provisions of this act, and for that purpose may, with the approval of the governor, employ and pay special counsel, and other persons, to assist it, and it shall have authority to sue, in its name as such, in all the courts of this State, and to prosecute therein all necessary and appropriate actions at law, or suits in equity, for the purpose of securing an observance and enforcement of this act. In case such Commission, in any such action, shall be entitled to a temporary restraining order, or injunction, pending final hearing, all such courts shall grant the same, with all reasonable dispatch, and, without requiring bond or surety from such Commission. All the laws of this State now in force, or which may hereafter be enacted concerning examinations by the Railroad Commission of Indiana of books and papers, and the production thereof, and the attendance of examination of witnesses in any investigation held by such Commission, shall apply and regulate the proceedings of such Commission in any investigations held by it pursuant to this act.

### **Temporary and Emergency Conditions—Receiver.**

Sec. 15. In case any such carrier, or carriers, shall fail to provide the equipment, motive power, and other facilities necessary to properly receive and care for the business on their lines, as required by this act, or in case any such carriers shall fail and neglect to perform any of the duties enjoined upon them by this act, and on account of any such failure, or neglect, any considerable traffic on its or their lines is refused, or not promptly moved, as required by this act, resulting in material injury to the citizens of any community in this State, or to the industries or commerce of any portion of the State, then the Railroad Commission of In-

diana, after five days' notice to the carrier or carriers interested, and a hearing had, shall adopt such temporary and emergency rates and establish such temporary and emergency routes of shipment, and adopt such temporary and emergency regulations concerning the movement of traffic as shall be necessary to correct the existing conditions, and may issue orders suspending certain traffic in favor of other traffics for the purpose of preventing existing, or threatened public calamity or distress. The carriers shall promptly comply with all such orders of the Commission, and, upon their failure so to do, the Commission shall apply in its name to any court of competent jurisdiction for the appointment of an operating receiver, for the purpose of enforcing all such orders, rules and regulations adopted by it, and such Commission may also apply in its name to any such court for the appointment of a receiver for any such carrier to enforce any other provision or requirement of this act which the offending carrier has failed to observe. In any such proceeding the court shall have, in addition to all the other powers and authority of such courts, full power and authority to operate any such road through its receiver, and enforce any and all such orders made by the Commission concerning the same, as shall be approved by such court and continue so to do so long as the occasion therefor exists. And any court shall have authority in any such proceeding to order its receiver to purchase such equipment and motive power, and to supply such other appliances and facilities as may be necessary to properly transact the carriers' present and prospective business in this State, in the manner required by this act, and every such court shall have authority to authorize its said receiver to issue and sell receiver's certificates for the purpose of obtaining funds for the uses specified in this act, or to issue certificates of indebtedness to pay for any such expenditures as are authorized by this act, and such courts are hereby authorized to declare any and all such certificates as it may authorize to be issued, pursuant to this act, to be the first and prior lien upon the property and income of the carrier in such manner and upon such terms as the court shall decree.

#### **Invalid Portions.**

Sec. 16. In case any of the provisions of this act shall be held invalid, such fact shall not operate to make invalid any other portion of the act, and the portions of this act not adjudged to be invalid shall be observed and enforced the same as though the invalid portion had not been enacted.

**Repeal.**

Sec. 17. All laws and parts of laws in conflict with this act are hereby repealed.

**PASSENGER RATE LAW.**

AN ACT to limit the charge which may be made for the transportation of passengers by any corporation, firm or individual owning or operating a railroad in whole or in part within this state, and providing for the transportation of baggage.

[S. 5. Approved February 25, 1907.]

**Railroads—Common Carrier—Passenger Rates.**

Section 1. Be it enacted by the General Assembly of the State of Indiana, That it shall hereafter be unlawful for any common carrier engaged in the carriage of passengers upon a railroad or railroads, between points in this State, to charge in excess of two cents per mile for the carriage of an adult passenger, or in excess of one cent per mile for the carriage of a passenger between five and twelve years of age: Provided, That the minimum charge in no case shall be less than five cents, and in determining the charge fractions of less than one-half mile shall be disregarded and all other fractions counted as one mile: Provided, That any person who shall purchase a ticket of any railroad or railway corporation at the price herein stipulated for the purpose of becoming a passenger on any railroad or railway train in this State, shall be entitled to have carried over said line of railroad or railway, baggage between the points named on said ticket to the amount of one hundred and fifty pounds, free of any additional charge: Provided, further, that where any passenger is given an opportunity, for thirty minutes continuously before the departure of any train, to secure a ticket entitling him to carriage, and fails to do so, then such carrier may charge and collect two and one-half cents per mile for the carriage of such passenger, and the minimum fare shall not be less than five cents; but upon the payment of cash fare at the rate of two and one-half cents per mile, the train conductor or collector to whom the payment is made, shall issue to the passenger a receipt for that part of the fare paid which is in excess of two cents per mile, and this receipt shall be redeemed with cash, upon the presentation thereof at any ticket office of the carrier, at any time within six months from the issuance thereof.

**Penalty—Prosecutions.**

Sec. 2. For any violation of the provisions of this act by any railroad company, its agent or employe, such railroad company shall forfeit and pay to the State of Indiana, a penalty of not less than twenty-five nor more than one hundred dollars for every such violation, to be recovered by suit brought in the name of the State of Indiana by the attorney-general of the State in any court of competent jurisdiction in any county into or through which the line or lines of road of the offending railroad company runs, or, by the prosecuting attorney of any judicial circuit in the State in any court of competent jurisdiction within said judicial circuit, through which the line or lines of road of said railroad company runs. Where such penalty is collected on a suit brought by the prosecuting attorney as provided in this act, there shall be recovered in addition thereto the sum of ten dollars as compensation for said prosecuting attorney.

**EXCESS BAGGAGE LAW.**

AN ACT concerning baggage and excess baggage; prescribing the duties of common carriers in reference thereto and fixing their maximum charges for transporting the same; defining certain offenses and fixing the punishment therefor, and repealing all conflicting laws.

[H. 171. Approved March 8, 1907.]

**Railroads—Free Baggage.**

Section 1. Be it enacted by the General Assembly of the State of Indiana, That each common carrier in this State which shall engage in the carriage of passengers by railroad, between points in this State, shall receive and transport, with each passenger tendering the same, the personal baggage of such passenger, not exceeding one hundred and fifty pounds (150 lbs.) for an adult and seventy-five pounds (75 lbs.) for a minor less than twelve (12) years old, and such personal baggage shall be carried without compensation other than the passenger transportation charge. All baggage as defined by this act in excess of the weights here specified, is hereby declared to be excess baggage, and such carriers are required to carry such excess baggage with the passenger, as required by this act: Provided, That such carrier shall be required to carry baggage only on trains equipped with a baggage car.

**Commercial Samples—Baggage.**

Sec. 2. The samples, goods, wares, appliances and catalogues of commercial travelers or their employers, and used by them for the purpose of transacting their business and carried with them solely for that purpose, when securely packed and locked in substantial trunks or sample cases, of convenient shape and weight for handling, are hereby declared to be baggage within the meaning of this act, and such carriers are required to transport the same with the passengers, as required by this act.

**Excess Baggage—Charges.**

Sec. 3. No such carrier shall charge for the carriage of excess baggage, as defined by this act, in excess of one (1) cent for each three (3) miles for each one hundred pounds (100 lbs.): Provided, That no charge for such excess shall be less than twenty-five (25) cents when the entire baggage is less than five hundred pounds (500 lbs.), or less than fifty (50) cents when the entire baggage is over five hundred pounds (500 lbs.), and in determining the rate, fractions of less than one-half ( $\frac{1}{2}$ ) mile shall be disregarded and fractions of one-half ( $\frac{1}{2}$ ) mile or more shall be counted as one (1) mile.

**Penalty.**

Sec. 4. Any common carrier violating any provision or requirement of this act shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than twenty-five (\$25) nor more than one hundred (\$100) dollars.

**Loss or Damage—Liability.**

Sec. 5. In case of the loss of or damage to such samples, goods, wares, appliances or catalogues of any commercial traveler or his employer, the carrier shall not be liable for any greater proportion of the value thereof or the damages sustained thereto than the excess baggage fare paid by the passenger bears to the current rate of freight on such line for like articles in like packages between the same points.

**Repeal.**

Sec. 6. All laws in conflict with this act are hereby repealed.

## SAFETY APPLIANCE ACT.

AN ACT to promote the safety of employes and travelers upon railroads, by compelling common carriers by railroads and interurban railroads in Indiana to provide certain safety appliances for locomotives, cars and trains, and to operate trains with reference thereto, and forbidding the construction and maintenance of certain structures in a dangerous manner over or along the line of any such carrier, and defining certain penalties for violations thereof, and providing for their collection, and defining the powers and prescribing the duties of the railroad commission of Indiana in reference thereto, and providing against the assumption of risk in certain cases.

[S. 192. Approved March 8, 1907.]

### **Railroads and Interurbans—Safety Appliances—Brakes.**

Section 1. Be it enacted by the General Assembly of the State of Indiana, That it shall be unlawful for any common carrier engaged in moving traffic by railroad between points within this State to use on its line any locomotive in moving such traffic not equipped with power driving wheel brakes and appliances for operating the train brake system, or to run any train in such traffic that has not seventy-five per centum of the cars in such train equipped with power or train brakes, and having the brakes used and operated by the engineer of the locomotive drawing such train, and all power brake cars in such train shall be associated together and have their brakes used and operated: Provided, That this section shall not apply to the handling of trains or cars in yard service, or to a local train while engaged in performing switching service.

### **Automatic Couplers.**

Sec. 2. That it shall be unlawful for any such common carrier to haul, or permit to be hauled or used on its line, any locomotive, car, tender or similar vehicle used in moving State traffic not equipped with couplers coupling automatically by impact, and which can be uncoupled without the necessity of men going between the ends of the cars.

### **Grab Irons—Hand-Holds.**

Sec. 3. That it shall be unlawful for any such common carrier to haul, or permit to be hauled or used on its line, any locomotive, car, tender, or similar vehicle used in moving of State traffic not provided with secure grab irons or hand-holds in the sides or ends thereof.

**Draw Bars.**

Sec. 4. That it shall be unlawful for any such common carrier to use any locomotive, tender, car, or similar vehicle used in the movement of State traffic, that is not provided with draw bars of standard height; to wit, standard gauge cars 34½ inches; narrow gauge cars 26 inches; measured perpendicularly from the level of the tops of the rails to the centers of the draw bars; the maximum variation from such standard heights between draw bars of empty and loaded cars shall be 3 inches.

**Application to Passenger Traffic.**

Sec. 5. That the provisions of section[s] 1, 2 and 4 of this act shall also apply to locomotives, cars and trains used in passenger traffic between points within this State, in so far as the same are applicable to the vehicles used in passenger train traffic: Provided, That none of the provisions of sections 1, 2, 3 and 4 of this act shall apply to any street railroad, interurban or suburban street railroad.

**Interurbans—Power Air Brake.**

Sec. 6. That it shall be unlawful for any common carrier in this State operating an interurban railway by electric power to operate or run upon any railroad in this State any motor car used in regular interurban passenger traffic which is not equipped with an approved power air brake, in good condition, and subject to the control and operation of the motorman in charge of such car, and of sufficient capacity to control the speed of the car.

**Railroad Commission—Extension of Time.**

Sec. 7. The Railroad Commission of Indiana may, from time to time, after full hearing and for good cause shown, increase the minimum percentage of cars in any train required to be operated by power or train brakes, and a failure to comply with any such requirement of said Commission shall be subject to a like penalty as a failure to comply with any requirement of this act. The said Railroad Commission of Indiana is hereby authorized to grant to any common carrier, subject to this act, upon full hearing and for good cause shown, a reasonable extension of time in which to comply with the provisions of this act: Provided, That in no case shall such extension, or extensions, in the aggregate, exceed the period of eighteen months from and after the approval of this act.

### **Connecting Lines—Equipment.**

Sec. 8. That any such common carrier may refuse to receive from its connecting lines, or from any shipper, any car not equipped in accordance with the provisions of this act.

### **Enforcement of Act—Inspectors—Transportation.**

Sec. 9. It is hereby made the duty of the Railroad Commission of Indiana to enforce the provisions of this act, and it is hereby authorized, with the consent and approval of the governor, to appoint and pay an inspector, or inspectors, to assist in so doing and in collecting the necessary information required for that purpose, and such Commission may adopt and promulgate all needful rules and regulations, not inconsistent with this act, to control the conduct of its inspectors and such carriers in reference to this act and such inspection. All carriers subject hereto shall provide free transportation, good in this State, for the inspectors employed by said Commission to be used only while traveling on the business of the Commission.

### **Penalty.**

Sec. 10. That every such common carrier, or the receiver thereof, using, or permitting to be used or hauled on its line, any locomotive, tender, car, or similar vehicle or train, in violation of any of the provisions of this act, shall be liable to a penalty of one hundred dollars for each violation, to be recovered in a suit or suits to be brought by and in the name of the Railroad Commission of Indiana for the use of the State of Indiana in any circuit or superior court of this State having jurisdiction over any such offending carrier: Provided, That nothing in this act contained shall apply to locomotives, tenders, cars, or trains, exclusively used in the movement of logs, and when the height of the draw bars on such locomotives, tenders and cars does not exceed 25 inches, or to locomotives, tenders, cars, similar vehicles or trains while any of which are in actual use in interstate commerce.

### **Overhead Bridges, Viaducts, Etc.**

Sec. 11. It shall be unlawful for any steam railroad carrier in this State which operates freight trains over its line in this State to maintain over or across its line in this State any overhead bridge, viaduct or other structure, the lowest point of which is less than twenty-one (21) feet above the level of the top of the rails



in the track of any such carrier, without obtaining the permission of the railroad commission of Indiana so to do. It shall also be unlawful for any party, person, association, municipal or private corporation to hereafter construct or hereafter maintain across the track of any such steam railroad carrier any such overhead bridge, viaduct or other structure, the lowest point of which is less than twenty-one (21) feet above the level of the top of the rails in any such track, without obtaining the permission of the Railroad Commission of Indiana so to do: Provided, however, That this section shall not apply to bridges, viaducts or other structures within the limits of any city or incorporated town in this State, nor shall this act operate to repeal or modify the laws of this State concerning the location and erection of wires across railroads, street railroads, interurban or suburban railroads.

#### **Bridges, Etc., Distances From Track.**

Sec. 12. It shall hereafter be unlawful for any steam railroad carrier in this State engaged in operating a line of standard gauge railroad in this State, to build any structure of any kind, or any existing railway bridge, or to rebuild an existing structure of any kind, or any existing railway bridge, along the line of any such railroad in this State, in which that part of any such structure or bridge nearest the track shall be less than eighteen (18) inches from the nearest point of contact with the cab of the widest locomotive that is now or may hereafter be used, or less than eighteen (18) inches from the nearest point of contact with the widest part of any car that is now or hereafter may be used, on any such railroad, without first obtaining the permission of the Railroad Commission of Indiana so to do.

#### **Penalty.**

Sec. 13. Every such common carrier, party, person, association or municipal or private corporation which shall violate any of the provisions of sections 11 or 12 of this act, after receiving sixty days' notice from the Railroad Commission of Indiana that some provision of such sections is being violated, shall be subject to a penalty of five hundred dollars for each violation, to be recovered in an action to be brought by and in the name of the Railroad Commission of Indiana for and on behalf of the State of Indiana in any circuit or superior court in this State having jurisdiction of the offending party.

**Liability for Injuries.**

Sec. 14. That any employe of any such common carrier who may be killed or injured by any locomotive, tender, car, similar vehicle, or train in use contrary to the provisions of this act, or who shall be killed or injured on account of any of the structures forbidden in sections 11 and 12 of this act, shall not be deemed thereby to have assumed the risk thereby occasioned, although continuing in the employment of such carrier after the unlawful use of such locomotive, tender, car, similar vehicle, or train, or the maintenance of such unlawful structures named in sections 11 and 12 of this act, had been brought to his knowledge, nor shall any such employe be held as having contributed to his injury in any case where the carrier shall have violated any of the provisions of this act when such violation contributed to the death or injury of any such employe.

**Repeal.**

Sec. 15. That all laws in conflict with this act are hereby repealed.

**BLOCK SYSTEM ACT.**

AN ACT to promote the safety of passengers, employes and property in transportation over railroads by steam power.

[S. 537. Approved March 9, 1907.]

**Railroads—Block System.**

Section 1. Be it enacted by the General Assembly of the State of Indiana, That after the 1st day of July, 1909, it shall be unlawful for any person, firm or corporation, or the lessee or receiver of any person, firm or corporation, which shall own or operate any line of railroad in this State, to operate any train over such railroad by steam power unless such railroad is equipped with and has in operation an approved block system for the control of train movements thereon: Provided, That the provisions of this section shall not apply to any such railroad as shall not have a gross annual income from operation of seventy-five hundred (\$7,500) dollars or more per mile of line, to be determined from its last preceding annual report to the Railroad Commission of Indiana.

**Railroad Commission—Powers.**

Sec. 2. Power and authority are hereby conferred upon the Railroad Commission of Indiana to extend the time specified in

section one of this act when it shall be made to appear to it that a reasonable necessity for such extension shall exist, provided that the extension so granted shall not exceed one year. Full power and authority are also conferred upon such commission to relieve any such party from complying with this act as to any branch or spur lines when it shall be made to appear that no reasonable necessity therefor exists. Full power and authority are also hereby conferred upon such Commission to relieve any such party from the obligations imposed by section one of this act when it shall be made to appear that the volume of traffic and train movement over any such railroad are such only that the same can be dispatched without substantial hazard to life and property over a line not so protected.

### **Penalty.**

Sec. 3. Any person, firm or corporation, receiver or lessee who or which shall violate section one of this act shall forfeit and pay to the State of Indiana the sum of one thousand dollars per week for each week that trains shall be operated over any such railroad in violation of such section, the same to be collected by the Railroad Commission of Indiana by a suit in its name for the use of the State of Indiana in any court of competent jurisdiction.

## **TRAIN RULES.**

AN ACT to provide for the safe operation of railroad trains on steam railroads in this state.

[S. 538. Approved March 12, 1907.]

### **Railroads—Printed Rules for Employees.**

Section 1. Be it enacted by the General Assembly of the State of Indiana, That every person, firm or corporation operating trains by steam power on railroads in this State, shall publish printed rules for the control and operation of such trains and shall deliver copies thereof to all persons engaged in the operation of such trains and file a copy thereof with the Railroad Commission of Indiana, and shall instruct such employes in the application of such rules and examine such employes thereon at least once in each six months after employment until the service has continued for eighteen months and annually thereafter. Any person, firm or corporation failing to observe the provisions of this section shall

be guilty of a misdemeanor and upon conviction thereof, for each offense, shall be fined not less than twenty-five dollars nor more than two hundred dollars.

#### **Railroad Commission—Convention—Accidents.**

Sec. 2. Be it further enacted that the Railroad Commission of Indiana shall call together in convention, at least once in every year, the division superintendents and such other operating and dispatching officers and employes of the steam railroads of this State as the Commission may deem best, and shall place before said convention the reports filed with the Railroad Commission with reference to railroad accidents that have taken place during the year, together with such findings and conclusions thereon as such Commission shall have made, and said convention shall thoroughly investigate said reports, findings and conclusions and discuss the same with a view to taking such steps by the Commission, by such railroad companies and by their officers and employes as may be necessary or expedient to prevent such accidents.

#### **Intoxication on Duty—Orders—Rules.**

Sec. 3. Be it further enacted, that it is hereby declared to be unlawful for any agent, officer or employe of any person, firm or corporation engaged in the operation of railroad trains by steam power in this State, to be or become intoxicated while in the performance of his duties as such, and it is also hereby declared to be unlawful for any such person to operate any such train or give orders or directions for the operation of any such train contrary to the printed rules of his company, regulating the operation of railroad trains by steam power in this State, which are required by section one of this act, and it is further declared to be unlawful for any such person to operate any such train or direct the operation of any such train in violation of any law of this State, and any such person so offending shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than twenty-five dollars and not more than five hundred dollars.

#### **Responsibility for Accidents.**

Sec. 4. Be it further enacted, That whenever the Railroad Commission of Indiana, in the investigation of any accident involving loss of life, shall come to the conclusion that the accident occurred on account of the violation of the printed rules for the operation

of trains, as required by section one of this act, by any officer or employe of any railroad company operated by steam power in this State, the Commission may, if it deems best so to do, and the neglect of duty or violation of the rules is flagrant or has been brought about by the intoxication of any person while on duty, report such person to the prosecuting attorney of the county wherein the accident occurred for prosecution under the criminal laws of this State.

### **Post Copies of Act.**

Sec. 5. Be it further enacted, that copies of this act, within sixty days after the same goes into effect, shall be, by the companies subject hereto, printed and conspicuously posted in the train cabooses, depots, and offices of train dispatchers and upon the bulletin boards at division headquarters of said companies.

### **FULL TRAIN CREW.**

AN ACT entitled an act concerning railroads and to better protect the lives of railway employes and the traveling public, and providing penalties for the violation thereof.

[H. 71. Approved February 13, 1907.]

### **Railroads—Freight Train Crews.**

Section 1. Be it enacted by the General Assembly of the State of Indiana, That it shall be unlawful for any railroad company doing business in the State of Indiana, that operates more than four (4) freight trains in every twenty-four hours, to operate over its road or any part thereof, or suffer or permit to be run over its road outside of the yard limits, any freight train consisting of more than fifty (50) freight or other cars, exclusive of caboose and engine, with less than a full train crew, consisting of six persons, to wit: One conductor, one engineer, one fireman, two brakemen and one flagman (such flagman to have had at least one year's experience in train service), and it shall be unlawful for any such railroad company that operates more than four (4) freight trains in every twenty-four hours, to run over its road, or any part thereof, outside of the yard limits, any freight train, consisting of less than fifty (50) freight cars or other cars, exclusive of caboose and engine, with less than a full crew for such a train, consisting of five (5) persons, to wit: One conductor, one engineer, one fire-

man, one brakeman and one flagman: Provided, however, That a light engine without cars shall have the following crew, to wit: One conductor, one flagman, one engineer and one fireman.

#### **Passenger Train Crews.**

Sec. 2. That it shall be unlawful for any railroad company doing business in the State of Indiana to run over its road or any part of its road, outside of yard limits, any passenger, mail or express train, consisting of five (5) or more cars, with less than a full passenger crew, consisting of one engineer, one fireman, one conductor, one brakeman and one flagman (said brakeman or flagman shall not be required to perform the duties of baggage masters or express messengers).

#### **Misdemeanor—Penalty.**

Sec. 3. That any railroad company doing business in the State of Indiana, who shall send out on its road, or cause to be sent out on its road, any train which is not manned in accordance with sections 1 and 2 of this act, shall be guilty of a misdemeanor, and upon conviction shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each offense, and such company shall be liable for any damages caused by the violation of any of the provisions of this act.

#### **Railroad Commission—Duty.**

Sec. 4. It shall be the duty of the Board of Railroad Commissioners to have this law enforced.

### **SIXTEEN-HOUR LAW.**

AN ACT entitled "An act to promote the safety of employes and travelers upon railroads in the State of Indiana, by limiting the hours of service of employes thereon, providing a penalty and repealing all laws or parts of laws in conflict therewith."

[H. 517. Approved March 8, 1907.]

#### **Railroads—Limit of Hours of Service.**

Section 1. Be it enacted by the General Assembly of the State of Indiana, That it shall be unlawful for any superintendent, train dispatcher, yardmaster, foreman or other railway official, to permit, exact, demand or require any engineer, fireman, conductor,

brakeman, switchman, telegraph operator or other employe engaged in the movement of passenger or freight trains, or in switching service, in yards or railway stations, to remain on duty more than sixteen consecutive hours, except when by casualty occurring after such employe has started on his trip, or by unknown casualty occurring before he started on his trip, he is prevented from reaching his terminal, or to require or permit any such employe who has been on duty sixteen consecutive hours, to go on duty without having had at least eight hours off duty, or to require or permit any such employe who has been on duty sixteen hours in the aggregate in any twenty-four-hour period, to continue on duty or go on duty without having had at least eight hours off duty within such twenty-four-hour period.

#### **Liability for Injury.**

Sec. 2. For any violation of or failure to comply with any of the provisions of this act, such company shall be liable to all persons and employes injured by reason thereof, and no employe shall in any case be held to have assumed the risk incurred by reason of such violation or failure.

#### **Penalty—Railroad Commission.**

Sec. 3. Any superintendent, train dispatcher, trainmaster, foreman or other official of any railway, in the State of Indiana, violating any of the provisions of this act, is hereby declared to be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, and it shall be the duty of the Railroad Commission to fully investigate all cases of the violation of this act and to lodge with the attorney-general information of such violation as may come to its knowledge.

#### **When Not Applicable.**

Sec. 4. The provisions of this act shall not apply to relief or wreck trains while clearing obstructions to the main line of any railroad.

#### **Repeal.**

Sec. 5. All laws and parts of laws in conflict with the provisions of this act are hereby repealed.

## STREET PROTECTION LAW.

AN ACT to amend section thirty-one (31) of an act entitled "An act concerning municipal corporations," approved March 1, 1905, and conferring certain powers and duties on the railroad commission of Indiana, and providing penalties, and repealing all laws in conflict therewith.

[H. 135. Approved March 1, 1907.]

**Towns—Trustees—Powers Defined—Street Crossings—Railroad Commission.**

Section 1. Be it enacted by the General Assembly of the State of Indiana, That section thirty-one (31) of the above entitled act be and the same is hereby amended to read as follows: Section 31. The board of town trustees shall have the following powers:

First. To organize by selecting one of their number as president, with the town clerk as clerk of the board, and to have a common seal and alter the same.

Second. To purchase, hold and convey any estate, real or personal, for the use of the corporation, so far as such purchase or conveyance may be necessary to carry out the objects contemplated in this act.

Third. To organize fire companies, to regulate their government and the times and manner of their exercises; to provide all necessary apparatus for the extinguishment of fires; to cause owners of buildings to provide ladders and fire buckets, which are hereby declared to be appurtenances to the real estate and exempt from execution, seizure or sale; and if any such owner shall refuse to procure suitable ladders or fire buckets, after reasonable notice, the trustees may procure and deliver the same to him, and, in default of payment therefor, may recover from such owner the value of such ladders or fire buckets by suit before any justice of the peace in the proper township, and costs accrued thereby; to regulate or prohibit the storage of gunpowder and other dangerous material; to direct the construction of a place of safe deposit for ashes; and may, under an order entered upon the proper book of the board, visit or direct the chief of the fire force to visit, and examine at all reasonable hours, dwelling houses, lots, yards, enclosures and buildings of every description, to discover if any of them are in a dangerous condition, and provide proper remedies for such danger; to regulate the manner of putting up stoves and stovepipes; to prevent outfires and the use of fireworks and the discharge of firearms within the limits of such corporation, or such parts thereof as the



board may think proper; to compel the inhabitants of such town to aid in the extinguishment of fires, and prevent its communication to other buildings, under such penalties as are in this act authorized; to construct, purchase and preserve engine-houses, fire stations, fire apparatus, reservoirs, wells, pumps and other water-works for supplying such town with water for fire protection and other purposes, and to regulate the use thereof, and to levy taxes or issue bonds to be sold at not less than par and to bear not more than six per cent. interest per annum, in the payment of liabilities thereby contracted; to establish fire limits, embracing so far as practicable the business part of the town, and to prevent the erection of wooden buildings within such limits; and generally, to establish such other measures of prudence for the prevention and extinguishment of fires as the board shall deem proper.

Fourth. To declare what shall constitute a nuisance, and to prevent, abate and remove the same; and take other measures for the preservation of the public health as the board shall deem necessary.

Fifth. To restrain fowls and animals from running at large and to impound and sell the same.

Sixth. To prohibit gambling and other disorderly conduct, and to authorize the seizure and destruction of gambling apparatus; to suppress and prohibit the keeping of houses of ill-fame; to punish intoxication, common prostitutes and their associates, and immoderate driving and riding; to regulate or prohibit the use of fire-arms, fireworks or other things tending to endanger persons and property; to prevent the interference with the free use of the streets and alleys of the town; and to preserve the peace and good order and prevent vice and immorality.

Seventh. To license, regulate or restrain auction establishments, street auctions, transient salesmen and merchants, itinerant vendors of goods, wares and merchandise, of whatsoever nature, whether denominated bankrupt stocks, fire sales, assignee's sales, or by any other terms used for the purpose of attracting trade, and whether managed by the owners or by agents; also hacks, drays and all vehicles carrying passengers for hire or moving goods or other articles for pay; and all tables, alleys, machines, devices and places for sports and games, kept for hire or pay; likewise the business of pawnbroking; also traveling peddlers, public exhibitors, and the sale of spirituous, vinous, malt and other intoxicating liquors. A sum not exceeding the amount required by the statutes of the State for license to sell or retail intoxicating liquors may

be required to be paid into the treasury of the corporation by the person so licensed before receiving such license.

Eighth. To establish and regulate markets and build market houses, and to direct the location of slaughter houses; but no town shall erect a market house or other permanent structure on any street.

Ninth. To lay out, open, establish, change, pave and otherwise improve the streets, alleys, sewers, sidewalks and crossings of the town, and keep them in repair, and also to change or vacate any such street or alleys.

Tenth. To appoint a street commissioner, a chief of the fire force and a marshal; and to adopt rules and regulations for the government of such officers: Provided, That the duties of any or all of such officers may be assigned, by ordinance, to the marshal.

Eleventh. To prohibit the incumbrance of the streets, alleys and other public grounds of the town, and to forbid the riding or driving of any vehicle or animal on any sidewalk therein, except in the necessary act of crossing the same.

Twelfth. To regulate the running of railroad trains, street and interurban cars and all other vehicles on or across the streets and alleys of the town; and to compel all railroad, street car and interurban companies to lay their tracks so as to conform to the established grade of the streets and alleys.

Thirteenth. To contract for lighting the streets and other public grounds of the town with gas, electricity or other suitable light: Provided, however, That the board of trustees, by a two-thirds vote of all their number, may, at a special meeting of the board called for that purpose, of which meeting a notice shall be given for two weeks by publication in a newspaper, if one be published in such town, and if not, by posting in at least one public place in each ward, cause to be constructed at the expense of the town an electric light plant or a gas plant for the purpose of furnishing public, commercial and domestic lights for such town. For the purpose of paying for such plant the board may issue the bonds of the town to an amount not exceeding the contract price of the plant and bearing not to exceed six (6) per cent. interest per annum, payable annually or semi-annually, and sell the same at not less than par value; and may provide by ordinance for the control and management of such plant.

Fourteenth. To require any railroad company running a car, engine or train of cars over or across any street in the night time, to maintain a street light at such crossing, to be lit at night during

the passage of every train, engine or car, and for not less than thirty (30) minutes prior thereto: Provided, That such board shall have no authority to require such railroad company to maintain any different kind of light at such crossings from that maintained by the town at its other street crossings generally. To regulate giving alarms, the ringing of bells and the sounding of steam whistles, whether locomotive or otherwise, within the town limits. To require persons or corporations owning or operating railroads to construct proper warning signs at street railroad crossings, or any of them; to require any railroad company to use, maintain and operate at any street crossing of its tracks considered to be dangerous and held so to be by the board of trustees in such town, electric gongs or alarm signals that will announce the approach of trains from any direction required; and to require such corporations or persons operating or owning railroads to construct and maintain gates, with men in charge, or keep flagmen at any railroad street crossing or crossings within such town limits, when such crossing or crossings are deemed dangerous and held so to be by the board of trustees. But the powers hereby conferred to require railroad companies to maintain and operate electric gongs and alarm signals, to construct gates and maintain them with men in charge and to maintain flagmen at street crossings shall be exercised in the following manner and be subject to the following limitations, to wit: Before any railroad company shall be required to maintain and operate any such electric gong or alarm signal, or to construct any gate and maintain the same with a man in charge, or to maintain a flagman at any such crossing, the board of trustees, by resolution, shall designate the crossing where it may be desired that any such protective means shall be employed and the character of the same, and provided therein when such means shall be installed and in service, which shall not be earlier than forty-five days from the time notice of the adoption of its resolution shall be served on the railroad company, which notice shall be in the form of a copy of the resolution and of the record of its adoption certified by the town clerk and served by the delivery of the same to the regular freight agent of the railroad company in the town. *The railroad company may appeal from such resolution to the Railroad Commission of Indiana by delivering to the town clerk or some member of the board of trustees a notice of appeal, within ten days from the time of service of the notice of the resolution on it as herein provided, which notice shall specify the grounds of the appeal, and by filing with such Commission the*

*notice of the resolution served upon it together with a copy of said notice of appeal within five days after the delivery of the notice of appeal to the clerk or a member of the board of trustees, and the authority to hear and finally determine said appeal is hereby conferred upon said Railroad Commission. The Commission shall docket the appeal at once, and shall send to such town a member of the Commission, who shall inspect the crossing or crossings in controversy and report to the Commission and the Commission shall determine the matter upon the grounds stated in the notice of appeal, only, within twenty days and enter upon its record an order either affirming or overruling such resolution of such board of trustees as the merits of the case shall warrant. If such Railroad Commission shall affirm such resolution of such board of trustees, it shall make an order requiring such railroad company to carry out the provisions of such resolution of such board of trustees within twenty-five days after such order of such Railroad Commission, and upon failure of any such company within said time to comply with such order in accordance with its terms, such railroad company for any neglect to so comply therewith, shall be liable to a penalty of one hundred dollars (\$100.00) and a like penalty for every ten days thereafter during which such neglect shall continue. Any such penalty or penalties may be recovered in an action of assumpsit brought in the name of the State of Indiana. And it shall be the duty of the prosecuting attorney of the proper county to bring any such action at the request of the Railroad Commission of Indiana, or at the request of the board of trustees of the town, which adopted such resolution. Where the term "railroad" or "railroads" is used without other designation in this subdivision it shall not be considered to include street railroads, interurban railroads or suburban street railroads: Provided, That the boards of trustees of all towns in this State having a population of less than seven hundred inhabitants, as shown by the last preceding United States census, are hereby prohibited from exercising the authority conferred by this act, in any manner, that would require any railroad company or corporation to construct and maintain gates and keep flagmen or to construct and maintain gates and keep flagmen at any street or railway crossing in said town.*

Fifteenth. To insure the public property of the town.

Sixteenth. To purchase, lay out and regulate cemeteries.

Seventeenth. To plant trees upon public grounds and along the streets of such town, and provide for their culture and preserva-

tion; to inclose, manage and care for any public square or other common or public grounds within such corporation; and to survey, determine, regulate and care for the banks, shores and wharves of any stream within the corporate limits; and to construct all necessary wharves and landings for steamboats and other vessels where such town is situated on the bank of a navigable stream, lake or watercourse. Such trustees may also purchase and hold real estate situated within or without the corporate limits of the town, to be used as a public park, and the board shall have power to levy taxes or issue bonds to defray the expenses of purchasing or improving such park, to an amount not exceeding two per cent. of the taxable value of the property of such town. If such bonds be issued they shall not be sold for less than par value and the rate of interest thereon shall not exceed six (6) per cent. per annum, payable annually or semi-annually. The board shall provide annually for the payment of the interest on such bonds and for the liquidation thereof by such tax levy therefor as may be necessary to meet such interest and principal from year to year until all such bonds are paid, and such board shall have complete jurisdiction over such park and may make all needful rules and regulations for its management and control.

Eighteenth. To levy and have collected annual taxes, not exceeding fifty cents on the hundred dollars valuation on all property subject by law to taxation, and twenty-five (25) cents poll tax; also a tax not exceeding one (1) dollar on each male dog and two (2) dollars on each female dog, to be paid by the owner thereof. Such board shall, in addition, have power to levy and have collected annual taxes, not exceeding thirty (30) cents on the one hundred dollars valuation on all property subject by law to taxation, for the support of town schools.

Nineteenth. To erect or provide such schoolhouses as may be necessary for the use of the schools of the town, to complete schoolhouses in process of erection and provide for the payment of the cost of the same, to keep all such schoolhouses in repair and to provide fuel and other necessities therefor.

Twentieth. To make and establish such by-laws, ordinances and regulations not repugnant to the laws of this State, as may be necessary to carry into effect the provisions of this act, and to repeal, alter or amend the same as they shall seem to require; but every by-law, ordinance or regulation imposing a penalty for its violation shall, except in case of emergency, to be declared therein, be published in a newspaper in such town, if one be printed therein,

or be posted in one public place in each ward of such town, at least ten (10) days before the same shall take effect.

Twenty-first. To enact fines, penalties and forfeitures for violation of this act, or of any by-laws or ordinances of the town, not exceeding ten (10) dollars for any one offense, which may be recovered in an action in the name of the corporation: Provided, That the fine assessed for the violation of any ordinance requiring a license may be a sum equal to the amount required by the ordinance to be paid for such license.

### **Repeal.**

Sec. 2. All laws and parts of laws in conflict with the provision of this act be and the same are hereby repealed.

## **TRAIN LIQUOR LICENSE.**

AN ACT to require certain railroads and railway companies to pay a license fee for the sale of spirituous, vinous, malt or other intoxicating liquors upon dining and buffet cars carried in trains running within this state, providing for the collection thereof, and declaring an emergency.

[S. 541. Approved March 12, 1907.]

### **Intoxicating Liquors—Railroad—Dining Car License.**

Section 1. Be it enacted by the General Assembly of the State of Indiana, That every railroad and railway company doing business within the State of Indiana which shall carry any dining or buffet cars in any train running within this State, or shall permit the same to be so carried, in which spirituous, vinous, malt or other intoxicating liquors are sold within this State, shall annually pay to the State of Indiana as a license therefor the sum of one thousand dollars, which sum shall be paid on or before the 10th day of June of each year hereafter to the treasurer of the State of Indiana, and in case such railroad or railway company shall fail to pay said sum to the said treasurer of State at the time herein provided, the auditor of State shall assess such railroad or railway company for said sum of one thousand dollars, to which shall be added a penalty of fifty per centum in addition thereto, and certify the same to the attorney-general as an account due to the State of Indiana from such railroad or railway company. The attorney-general shall bring an action against the railroad or railway company so assessed in the name of the State of Indiana, in

any court of record in any county of the State in which said railroad or railway company maintains a station and has an agent, for the recovery of the sum so due on account of its failure to pay said license fee and penalty, and the court trying the same shall render judgment therein as in civil cases.

### **Emergency.**

Sec. 2. An emergency existing, this act shall be in full force and effect from and after its passage.

## **BRIBERY OF TRAIN CREW.**

AN ACT defining the crime of bribery and prescribing punishment therefor.

[S. 257. Approved March 8, 1907.]

### **Public Offenses—Bribery—Railroad Employees.**

Section 1. Be it enacted by the General Assembly of the State of Indiana, That any person, being an officer, agent or employe of any common carrier doing business in this State, who shall, directly or indirectly, solicit, accept or receive from any person, firm or corporation any money, property or thing of value, in consideration for which such officer, agent or employe does, or agrees to do, or perform, any act for and on behalf of such carrier, and in the behalf of such person, firm or corporation, shall be guilty of bribery, and upon conviction thereof shall be fined not less than twenty-five dollars nor more than one hundred dollars.

### **Bribery—Person or Corporation Offering.**

Sec. 2. Any person or corporation, or any agent, employe or officer of any firm or corporation, who shall, directly or indirectly, offer, pay or deliver to any officer, agent or employe of any common carrier doing business in this State, any money, property or thing of value, in consideration for which such officer, agent or employe, does, or agrees to do, or perform, any act for and on behalf of such carrier, and in the behalf of such person, firm or corporation, shall be guilty of bribery, and upon conviction thereof shall be fined not less than twenty-five dollars nor more than one hundred dollars: Provided, That the payment and acceptance of the established and regular charges imposed by any such common carrier for services performed by it shall not constitute either of the crimes defined by this act.

## FLAG STATIONS.

AN ACT concerning flag stations on the line of steam railroads within the limits of towns or cities of more than twenty-five hundred (2,500) and less than twenty-eight hundred (2,800) inhabitants, and of more than seventeen hundred fifty inhabitants and less than eighteen hundred fifty inhabitants by the last preceding United States census, and providing penalties for the violation of the provisions of this act, and declaring an emergency.

[H. 237. Passed over Governor's veto March 11, 1907.]

### **Railroads—Flag Stations—Penalties.**

Section 1. Be it enacted by the General Assembly of the State of Indiana, That all railroad companies operating local passenger trains in the State of Indiana, where any such trains pass through towns or cities in said State having more than twenty-five hundred (2,500) and less than twenty-eight hundred (2,800) inhabitants, or more than 1,750 and less than 1,850 inhabitants, as shown by the last United States census, be and they are each hereby required to establish flag stations at or near the center of any such towns or cities on the line of said railroad, and it shall be unlawful for any conductor or employe in charge of any such train to refuse to stop his train at said flag station, or to let any passenger off or to take any passenger on thereat, whenever any passenger may desire to leave the train or get on any such train. And it shall be unlawful for any conductor or other employe of any such railroad company in charge of any such train to charge or collect any fare from any such passengers in excess of two and one-half cents per mile actually traveled by such passenger or passengers, as now provided by law, and for any violation of any of the provisions of this act said conductor or employe shall be fined not less than ten dollars (\$10.00) nor more than twenty-five dollars (\$25.00): Provided, That this act shall not apply to railroad companies which have established and maintained, or which shall hereafter establish and maintain, regular stations upon their roads at such towns and cities reasonably convenient of access to the citizens of such towns and cities.

### **Emergency.**

Sec. 2. Whereas an emergency exists for the immediate taking effect of this act, it is hereby declared to be in full force and effect from and after its passage.



## TRANSPORTING OF FISH.

AN ACT to amend sections six hundred fifteen (615), six hundred sixteen (616) and six hundred twenty-five (625) of an act entitled "An act concerning public offenses," approved March 10, 1905.

[H. 386. Approved February 26, 1907.]

**Public Offenses—Fish—Catching, Transporting and Sale Forbidden.**

Section 1. Be it enacted by the General Assembly of the State of Indiana, That section six hundred fifteen (615) of the above entitled act be and the same is hereby amended to read as follows: Whoever shall sell or offer for sale any pike, pickerel, wall-eyed pike, perch, bluegills, black bass, green bass, rock bass, or other species of bass caught in any of the waters of this State, at any time, shall, on conviction, be fined five dollars (\$5.00) for each fish caught, sold or offered for sale, and proof that any of the varieties of fish mentioned in this section were sold or offered for sale shall be considered prima facie evidence that said fish were caught in the waters of this State.

**Ice on Streams—Fishing—Shipments—Private Pond.**

Sec. 2. That section six hundred sixteen (616) of the above entitled act be and the same is hereby amended to read as follows: Whoever shall take, catch or kill or attempt to take, catch or kill any fish in any of the waters of this State by any means or with any device whatever, except with not to exceed two fish hooks at any one time, at any time when such waters are covered in whole or in part with ice; or whoever shall catch, kill or have in his possession more than fifty bluegills, sun-fish or crappies in any one day or whoever takes or attempts to take any fish by any means, or with any device, from any of the waters of this State, at any time when the same are covered in whole or in part with ice, from, or in any movable fish house, fish shanty, or other movable enclosure, shall be deemed guilty of a misdemeanor, and on conviction shall be fined five dollars (\$5.00) for each fish caught or possessed in violation of this section, and not less than ten dollars (\$10.00) nor more than twenty-five dollars (\$25.00) for each attempt to catch fish in violation of this section. *It shall be unlawful for any railroad company, express company, or other common carrier to transport, take or carry, or receive for the purpose of transporting, taking or carrying beyond the limits of this State any pike, pickerel, wall-*

*eyed pike, perch, bluegill, black bass, green bass, rock bass or other species of bass, and it shall be unlawful for any person or persons to deliver or offer to deliver to any railroad company, express company, or other common carrier, any of said species of fish for the purpose of transporting, taking or carrying the same beyond the limits of this State:* Provided, That none of the provisions of this section shall prevent the owner of private ponds from taking fish from said private ponds in any manner, or said owner from possessing or selling any such fish, or any common carrier from transporting any such fish which have been taken from private ponds, or to prevent any person, other than a common carrier, from personally taking a total of not to exceed twenty-four (24) of the said species of fish caught by himself beyond the limits of this State, which said fish shall be carried by such person openly for inspection by any officer of the Indiana Fish and Game Commission: Provided, That before any common carrier shall transport any fish from private ponds, the owner of said ponds shall present an affidavit stating that said fish were taken from said private ponds, the word "private pond," as used herein shall be construed to mean and include any body of water of not greater than twenty acres in area lying wholly within or upon the land of any land owner. Whoever shall violate any of the provisions of this section shall, upon conviction thereof, be fined ten dollars (\$10.00) for each fish transported, taken or carried, or received for the purpose of transporting, taking or carrying or delivered, or offer of delivery for the purpose of transporting, taking or carrying beyond the limits of this State.

### **Trespassing on Land.**

Sec. 3. That section six hundred twenty-five (625) of the above entitled act be and the same is hereby amended to read as follows: No person shall enter upon any enclosed land for the purpose of setting a trot line, nor shall any person fish in any private pond, without first obtaining the consent of the owner, lessee or tenant of such premises. Whoever shall violate or attempt to violate the provisions of this section shall, on conviction, be fined not less than five dollars nor more than twenty-five dollars.

## EMPLOYES' RELIEF ASSOCIATIONS.

AN ACT to regulate the relief associations which are in operation on railroads in the State of Indiana.

[H. 104. Approved February 21, 1907.]

### Railroads—Relief Association Contract.

Section 1. Be it enacted by the General Assembly of the State of Indiana, That no railroad company now existing, or hereafter created, under and by virtue of the laws of this State or any other State or country, and having and operating a line of railway in this State, may establish or maintain, or assist in establishing or maintaining any relief association or society, the rules or by-laws of which shall require of any person or employe becoming a member thereof to enter into a contract, agreement or stipulation, directly or indirectly, whereby such person or employe shall stipulate, or agree to surrender or waive any right of damage against any railroad company for personal injuries or death, or whereby such person or employe agrees to surrender or waive, in case he asserts such claim for damages, any right whatever, and any such agreement or contract, so signed by such person shall be null and void.

## FICTITIOUS LIQUOR SHIPMENTS.

AN ACT to amend section 12 of an act entitled "An act to regulate and license the sale of spirituous, vinous and malt and other intoxicating liquors; to limit the license fees to be charged by cities and towns; prescribing penalties for intoxication and providing for the recovery of damages for injuries growing out of unlawful sales of intoxicating liquors; to repeal all former laws regulating the sale of intoxicating liquors and all laws and parts of laws coming in conflict with the provisions of this act; prescribing penalties for the violation thereof, and declaring an emergency," approved March 17, 1875, the same being section 7285, Burns' Statutes, 1901, and adding supplemental sections thereto.

[S. 90. Approved February 13, 1907.]

### Fictitious Shipments—Penalty.

Sec. 10. It shall be unlawful for any railroad or any common carrier or agent thereof or any drayman or other person or persons, corporation or firm, to ship, receive, transport, carry or handle intoxicating liquor or liquors under false or fictitious names

or titles within the State, and the carriage, transportation, possession, removal, delivery or acceptance, with knowledge thereof, of such liquors under false or fictitious names or titles, shall work the forfeiture of such liquor or liquors. Any one violating any of the provisions of this section, upon conviction of the same, shall be fined not less than fifty (\$50) dollars nor more than one hundred (\$100) dollars.

**APPENDIX VIII.**

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**Circulars Issued.**



## Circulars Issued.

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We publish herewith a historical file of circulars issued by the Commission. They are continually called for, and our supply has been exhausted.

### Circular No. 1.

#### RAILROAD COMMISSION OF INDIANA.

To the Railroad Companies of Indiana :

Many complaints are made to the Railroad Commission of Indiana of violations of an act to regulate charges on excess baggage, approved March 9, 1903. (Acts 1903, p. 225.)

An examination of the schedules filed in this office by some of the railroad companies indicates the intention substantially to comply with the act. But "there seems to be a general misunderstanding or misconception of the law relating to this subject," we are advised by one railroad manager, and some of the complaints assert that "so far this law has been a dead letter."

Section 20 of the Railroad Commission Law makes it the duty of the Commission "to see that all laws of the State, concerning railroads, are enforced and obeyed, and that violations thereof are promptly prosecuted, and penalties due the State therefor recovered and collected."

This circular is, therefore, to notify all railroad companies carrying excess baggage from one point in this State to another point in this State, that hereafter each and every violation of said act of the legislature, a copy of which is attached hereto, will be reported by the Commission to the prosecuting attorney of the county, and a prosecution commenced and carried on by the Commission against the railroad company making the overcharge.

Respectfully,

C. B. RILEY,  
Secretary.

(Acts 1903, page 225.)

Section 1. Be it enacted by the General Assembly of the State of Indiana, That it shall be unlawful for any railroad in this State over five miles in length, using steam or electricity as a motive power, to charge, between any points in this State, more than twelve per cent. of the amount of a first-class fare between such points per one hundred pounds for excess of baggage over one hundred and fifty pounds: Provided, That the total minimum charge for such excess, when the same does not exceed two hundred pounds, shall not be less than twenty-five cents.

**Sec. 2.** Any such railroad company violating the provisions of this act shall be deemed guilty of a misdemeanor, and, upon conviction by any court of competent jurisdiction in any county of the State through which such railroad runs, shall be fined in any sum not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00): Provided, No fine shall be assessed hereinunder if such company shows clearly that such overcharge for baggage was caused by clerical error.

**Sec. 3.** Whereas, an emergency is declared to exist for the immediate taking effect of this act, the same shall be in force and effect from and after its passage.

## **Circular No. 2.**

### **RAILROAD COMMISSION OF INDIANA.**

INDIANAPOLIS, IND., November 20, 1905.

To the Railroads and Grain Dealers of Indiana:

Gentlemen—This Commission, having in mind the interests of the agriculturists of the State, also the interests of the carriers and the receivers and forwarders of agricultural products, has learned from reliable and trustworthy sources that the present year has been one of the most successful in the history of the State in the yield of these products. The production this year of these commodities has been approximately as follows:

Wheat, 29,104,186 bushels.

Corn, 159,320,424 bushels.

Oats, 64,995,543 bushels.

Hay, 3,929,110 tons.

The Commission is also reliably informed that the surplus of these products, which will enter into the commerce of the State, and which have been and will be carried on the railroads of the State during the next few months, is as follows:

Wheat, 14,552,093 bushels (436,562 tons).

Oats, 32,497,776 bushels (515,361 tons).

Corn, 95,592,252 bushels (2,676,583 tons).

Hay, 1,964,550 tons.

Total tonnage to move, 5,593,056 tons.

Total cars required (20 tons each), 279,652.

The Commission is also informed that there are about 900 grain elevators in the State, and that about 32 of such elevators are located in the larger cities, and are used as terminal and transfer or cleaning and storage houses, receiving their grain from carriers at second hand. The storage capacity of these larger terminal houses is only about 5,000,000 bushels. The remaining 868 elevators in the State receive grain from the producers, and their total holding capacity is only about 20,000,000 bushels of all kinds of grain. The average capacity of these houses is about 23,000 bushels, but the details show that the greater number of houses are of much less than this average; in fact, the greater majority run less than 18,000 bushels. These elevators, of course, are on the lines of the various



railroads of the State, and have come about to meet the necessities of the communities which they serve, and generally with the encouragement of the railroads. Investigation also reveals the fact that about 219 of these elevators, which receive grain from producers and have a capacity of about 5,000,000 bushels, or 27,000 each, are located on the lines of the railroads at competitive points, while there are 649 elevators, having a holding capacity of only 14,000,000 bushels, or 20,000 each, which are located at non-competitive points and are dependent on the single line, and many of these houses are small, holding only from 6,000 to 10,000 bushels.

Previous experience and present indications and information lead the Commission to the conclusion that during the next five months, embracing the winter season, when the capacity of the carriers is most severely tested, there will be a shortage in cars, and also in motive power, on the part of the greater number, if not all, the carriers of the State, and that during such time the Commission apprehends that the capacity of the carriers will not be sufficient, in cars and motive power, to promptly move this unusual crop of corn, and at the same time haul the vast quantities of coal which will be tendered for carriage during such period, and also to take care of the ordinary commerce of the State dependent on the carriers. The Commission, therefore, does not ask or expect that which is impossible. However, the information of the Commission is such as to lead to the conclusion that heretofore, when like conditions were present, the carriers, in the distribution of cars, have probably unduly favored elevators located at competitive points in this State and the large terminal markets of other States, to the injury of the shippers dependent wholly on the one line for service. In many cases this has heretofore resulted in manifest injustice to the small dealer, who has a limited storage, and also in depriving many localities of the privilege of moving part of their crop, while the dealers at the competitive points and the receivers and forwarders at the large terminals have monopolized the carrying capacity of the roads.

The Commission realizes that this condition seriously affects this State, on account of the fact that it has no large terminal markets for corn, while its production of that commodity stands well toward the top.

The Commission also realizes that probably no hard and fast rule can or should be promulgated for the conduct of this business by the carriers. However, there are certain things which should be kept in mind by the carrier and the shipper, which, if faithfully observed, will probably avoid many of the hardships and conserve the tempers of the parties having the business in hand. For instance, the carriers can not be expected or required to move with their usual promptness such a large and unusual tonnage as will come to them during the coming winter, and all the shippers can expect or demand is that the carriers do their utmost with the equipment at hand, and treat all their customers with fairness, so that all may share in the facilities for carriage, and all share in the inconvenience and loss incident to the excessive prosperity of the country which has produced this excessive tonnage. The Commission believes that all fair-minded officials of the carriers and all shippers who will candidly consider the matter will agree with the Commission that there can be no excuse found in the law or in the principles controlling fair dealing which will justify the carrier in giving a preference to the shipper located at a

competitive point in the right to have his business taken care of, while the shipper located on the same line, at a non-competitive point, has no service. Competition must not control the right to service.

It seems fair to insist that the first duty of the carrier, which receives its charter to do business from the State, should be to care for the business along its line in the State, and that its equipment should be so used as to take care of its own customers before seeking business beyond the State's boundary, and that within the State the equipment of the carrier, if insufficient to care for all the business tendered, should be apportioned between its customers upon a basis of tonnage afforded and ready to go, subject to modifications on account of the capacity for ready loading, so as to keep the equipment in service at all times, and subject also to such rules and regulations as may be necessary on account of the destination. If the equipment is sufficient to meet all demands, no rules are necessary, except to perform the service. If not sufficient, some regulation looking to fair treatment should be inaugurated, excepting that live stock and perishable freight must be first moved.

This circular is directed to all the grain carrying roads in the State, also to all the grain dealers, so far as the Commission is able to learn the same, and is issued in a spirit of mutual helpfulness to all concerned, hoping thereby to bring the parties closer together and arrive at a better understanding of the rights and limitations of the parties.

The Commission is not advised as to the rules obtaining among the carriers as to the distribution of their equipment, when insufficient to perform the service demanded, and therefore requests the carriers to forward to the Commission their answer to the following questions:

1. Is your car equipment and motive power sufficient to promptly handle the business which will probably be tendered during the coming winter, when the grain and coal movement will be at the maximum?
2. When your equipment is not sufficient to promptly handle all the business, upon what rule or basis do you apportion your cars among your customers, and to whom must the shippers apply for cars, and in what manner must the application be made?
3. If your line extends into other States, upon what basis do you apportion to the line in this State its portion of cars and motive power for the dispatch of your business in this State, in cases and during times when your equipment is not sufficient to promptly handle all your business?
4. What objection has your line to the distribution of cars, in case of shortage, according to the principles indicated in this circular?
5. Give the name of the officer and his address who has charge of the distribution of the equipment among your customers, stating the various divisions of your road in this State, if more than one, and giving the officer in charge of cars for each division.
6. Would it be of advantage to your line and the officer having charge of the distribution of cars to know from time to time (day to day or week to week) the capacity and condition of each elevator in his territory, as to tonnage on hand ready for shipment, prospects for the ensuing ten days and present demands for cars?

Upon receipt of answers to these questions the Commission will undertake to inform the grain dealers of the condition and furnish them with

the necessary information and instructions to enable them to keep the carriers informed, so that there may be the minimum of friction between them and the carriers, and the maximum of service, equally and fairly distributed.

Hoping to receive the co-operation of the carriers and the dealers in this effort to smooth out whatever has heretofore ruffled their relations, and to obtain for each party that fair treatment and consideration which we are sure will be greatly to the advantage of all concerned, the Commission is,

Very respectfully yours,

UNION B. HUNT,  
CHAS. V. McADAMS,  
WM. J. WOOD,

CHAS. B. RILEY, Secretary.

Commissioners.

#### INDIANA LAWS.

The Commission attaches hereto the following copy of portions of the recent railroad laws of this State, as bearing upon the rights of the parties addressed in the foregoing circular:

Paragraph D, Section 11, Acts 1905, p. 95. "Whenever any property is received by any common carrier subject to the provisions of this act to be transported from one place to another within the State, it shall, upon demand of the shipper, issue a receipt or bill of lading therefor, naming therein the classification of said freight and the rate of freight at which the same is to be carried, and it shall be unlawful for such common carrier to limit by contract or otherwise the negotiability of any bill of lading; nor shall any carrier limit or change its common law liability by contract or otherwise, as to its responsibility for the negligent act of its agents and servants with reference to property in its custody as a common carrier: Provided, That nothing herein contained shall be construed as to abridge, or in any wise lessen the liability of any such carrier as it now is under existing laws."

Section 14, except Paragraph E, Acts 1905, p. 96. "If any railroad subject hereto, directly or indirectly, or by any special rate, rebate, drawback or other device, shall charge, demand, collect or receive from any person, firm or corporation a greater or less compensation for any service rendered or to be rendered by it than it charges, demands, collects or receives from any other person, firm or corporation for doing a like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances and conditions, such railroad shall be deemed guilty of unjust discrimination, which is hereby prohibited.

(a) "It shall also be an unjust discrimination for any such railroad company to make or give any undue or unreasonable preference or advantage to any particular person, firm, corporation or locality, in connection with the transportation of any shipment or shipments, or to subject any particular kind of traffic to any undue or unreasonable prejudices, delay or disadvantage in any respect whatsoever.

(b) "Every railroad company which shall fail or refuse, under such regulations as may be prescribed by the Commission, to receive and transport without unreasonable delay or discrimination the passengers, tonnage

and cars, loaded or empty, of any connecting line of railroad company, and every railroad company which shall under such regulations as may be prescribed by the Commission, fail or refuse to transport and deliver without unreasonable delay or discrimination any passengers, tonnage or cars, loaded or empty, destined to any point on or over the line of any connecting line of railroad, shall be deemed guilty of unjust discrimination: Provided, That perishable freights of all kinds and live stock shall have precedence of shipment: Provided further, That this shall not be construed as to require any railroad company to give the use of its terminal facilities to any other railroad company engaged in like business, except that if such terminal facilities are granted to one company, they shall be granted on like terms to all other companies.

(c) "It shall also be an unjust discrimination for any railroad company subject hereto to charge or receive any greater compensation in the aggregate for the transportation of like kinds of property or passengers for a shorter than for a longer distance over the same line in the same direction, the shorter distance being included in the longer: Provided, That upon application to the Commission any railroad company may in special cases, to prevent manifest injury, be authorized by the Commission to charge less for longer than for shorter distance for transporting persons and property, and the Commission shall from time to time prescribe the extent to which such designated railroad may be relieved from the operation of this subdivision: Provided, That no manifest injustice shall be imposed upon any person at intermediate points: Provided further, That nothing herein shall be so construed as to prevent the Commission from approving what are known as 'group rates' on any of the railroads in the State.

(d) "Any railroad company violating any provision of this section shall be deemed guilty of unjust discrimination, and shall for each offense pay to the State of Indiana a penalty of not less than \$500.00 nor more than \$5,000.00, to be recovered in a civil action instituted for that purpose in a court of competent jurisdiction."

Section 15, entire, Acts 1905, p. 98. "Any officer or agent of any railroad company subject to this act, who by means of false billing, false classification, false weight, or by any other device, shall suffer or permit any person to obtain transportation for property at less than the regular rate then in force, on such railroad, or who by means of false billing, false classification, false weighing or by any device whatever, shall charge any person, firm or corporation, more for the transportation of property than the regular rates, shall be guilty of a misdemeanor, and on conviction thereof, fined in a sum not less than \$100.00 nor more than \$1,000.00.

(a) "Any person, firm or corporation who shall receive any rebate or concession, or who knowingly by means of false weight, false classification, false billing, or by any other device, shall obtain lower than the regular rates then in force, shall be guilty of a misdemeanor and upon conviction shall be fined in a sum of not less than \$100.00 nor more than \$1,000.00."

Section 16, entire, Acts 1905, p. 99. "In case any railroad company subject to this act shall do, cause to be done, or permit to be done, any matter, act or thing in this act prohibited, or declared to be unlawful, or shall omit to do any act, matter or thing herein required to be done by it,

such railroad company shall be liable to the person or persons, firm or corporation injured thereby for the damages sustained in consequence of such violations, and in case said railroad company shall be guilty of extortion or discrimination as by this act defined, then in addition to such damages, such railroad company shall pay to the person, firm or corporation injured thereby a penalty of not less than \$100.00 nor more than \$500.00, to be recovered by a civil action in any court of competent jurisdiction in any county into or through which such railroad may run: Provided, That such company may plead and prove as a defense to the action for such penalty that such overcharge was unintentionally and innocently made through a mistake of fact: Provided, That such recovery as herein provided shall in no manner affect a recovery by the State of any penalty provided for such violation."

Section 20, entire, Acts 1905, p. 100. "It is hereby made the duty of such Railroad Commission to see that the provisions of this act and all laws of this State concerning railroads are enforced and obeyed, and that violations thereof are promptly prosecuted, and penalties due the State therefor recovered and collected. And said Commission shall report all said violations, with the facts in their possession, to the Attorney-General or other officer charged with the enforcement of the laws, and request him to institute the proper proceedings; and all suits between the State or the Commission and any railroad or express company shall be placed immediately upon the trial calendar of the courts wherein the same are pending, and shall have precedence over all other civil causes pending in such courts, to the end that there may be speedy trials and adjudications thereof.

(a) "It shall be the duty of the Commission to investigate all complaints against the railroad company subject hereto, and to enforce all laws of this State in reference to railroads."

### **Circular No. 3.**

STATE OF INDIANA.

#### **RAILROAD COMMISSION OF INDIANA.**

INDIANAPOLIS, IND., November 20, 1905.

To the Railroads of Indiana:

Gentlemen—Section 3 of the Act of 1905, creating this Commission, makes it the duty of the Commission "to adopt all necessary regulations to govern car service and the transfer and switching of cars from one railroad to another at junction points or where entering the same city or town, and to supervise charges therefor; to require and supervise the location and construction of sidings and connections between railroads." Section 14 subjects the railroads to a penalty of not less than \$500.00 nor more than \$5,000 (prescribed for unjust discrimination) if it "shall, under such regulations as may be prescribed by the Commission, fail or refuse to transport and deliver without unreasonable delay or discrimination, any passengers, tonnage or cars; loaded or empty, destined to any point on or over the line of any connecting line of railroad."

These provisions of the law seem to be very plain, and the benefits to accrue from their observance are of great value to those who are de-

pendent upon the carriers of the State in the transaction of their business. Of course the service here contemplated can not be required without compensation, which must vary and be regulated by the different conditions obtaining at various junction points. The Commission is continually receiving complaints from different portions of the State concerning the failure of different carriers to adopt universal switching arrangements with connecting roads. A great many of these complaints have been readily and gladly adjusted by the carriers involved. Several such cases are now under consideration by the Commission, with a view to their adjustment. The Commission has been gratified by the uniform disposition of the carriers of the State to adjust complaints of this character without formal proceedings, and, believing that the carriers are disposed to comply with this law, the Commission has concluded to and does now invite each of the carriers receiving this circular to send its proper representative to meet with the Commission and representatives of the different commercial bodies and shippers at junction points, in a conference upon this subject, with a view to the adoption of some uniform and universal regulations which will meet the views and concurrence of all the parties and the approval of the Commission.

Such conference will be held at Room 85, State House, on December 15, 1905, at 10 o'clock a. m., and the Commission respectfully requests an early response hereto and the name of the person who will represent the carrier which receives this communication.

By order of the Commission.

CHAS. B. RILEY, Secretary.

#### ADDENDUM.

Enclosed is a copy of the circular sent to the various commercial bodies and shippers of the State. If any carrier receiving this communication now has in force or will send the Commission a copy of an order to be issued, putting in force universal switching regulations with all connecting roads on its lines in this State, then it will not be necessary for such carrier to send any representative to this meeting.

#### Circular No. 4.

STATE OF INDIANA.

#### RAILROAD COMMISSION OF INDIANA.

INDIANAPOLIS, IND., November 20, 1905.

To the Commercial Bodies and Shippers of Indiana:

Gentlemen—On account of the numerous complaints, from different portions of the State, on the subject of interchange of switching facilities between the railroads at junction and terminal points within the State, and having in view the provisions of the law upon the subject, this Commission has invited a representative of each of the railroads of the State to meet with the Commission and representatives of the commercial bodies and shippers at junction points, for the purpose of a conference on this important subject, with a view to the adoption of some approved, uniform and universal regulations to control this matter, which is of such vital interest to the carriers and shippers.

This meeting will be held at Room 85, State House, on December 15, 1905, at 10 a. m., and each commercial body receiving this circular, and the shippers at each junction point, are invited to have at least one representative present to speak for his locality. The Commission will not be able to get notice to all the shippers, and will depend upon those who get this notice to notify their friends, and get together and agree upon a representative. At localities where complete and indiscriminate switching facilities are now in vogue, no action will be considered or representative necessary.

Enclosed is a copy of the circular this day sent to the railroads, and those receiving this circular will please advise the Commission of the purpose to attend and the representative selected.

By order of the Commission.

CHAS. B. RILEY, Secretary.

### **Circular No. 5.**

#### **STATE OF INDIANA.**

#### **RAILROAD COMMISSION OF INDIANA.**

INDIANAPOLIS, IND. November 22, 1905.

To the Railroads and Coal Shippers of Indiana:

Gentlemen—During the last calendar year there were in operation, in this State, some 184 bituminous coal mines located in fourteen counties of the State, not including the smaller mines which do not use the railroads in handling their output. These mines employed, in miners and office forces at the mines, about 17,500 people, who received an aggregate compensation of about \$7,000,000. The aggregate output of all these mines was approximately 10,000,000 tons of coal for the year. This tonnage had to be handled by the railroads to get the same to points of consumption. To do so required approximately 500,000 cars, of twenty tons each.

During the year there were sixty-four instances in which mines were idle on account of a shortage of cars for the out movement of the product on hand, thereby blocking the operation of the mines. The statistics for the current year have not been collected, but indications are that there are probably more mines in operation than last year, and that the output will approximate that of last year. Already there is complaint of a shortage of cars to handle this business. The excessive grain crop of this year, for out shipment (about 6,000,000 tons), which moves more largely in the colder months when the demand for coal shipment is at the maximum, points to a probable shortage also in motive power to handle the excessive tonnage in sight for the coming winter.

Thirteen of the railroads of the State enter these coal fields and receive this coal at first hands and carry it to destination or points of distribution to other connecting roads. Such of these roads as have reported to the Commission show that the carriage of coal of this character constitutes a very large portion of their total tonnage, the lowest per cent. being that of the Clover Leaf, at 23, and the highest that of the Southern Indiana, at 79. These coal industries constitute a very large portion of the combined wealth of the State. The continuous operation

of the mines furnishes the comforts of life to many thousands of people who live near them and who are dependent upon them for employment. Many of the industries of the State are dependent also upon the continuous operation of the mines and the prompt shipment of their output. Many cities, towns and communities are wholly dependent upon these mines for fuel. The mines in this State are in competition with the mines in Illinois, Kentucky and Ohio by rail, and with the mines of Pennsylvania and West Virginia by water, down the Ohio. It is important to the people of this State to keep their own industries in operation. The railroads of this State, which receive their charter rights from the State, owe their first duty to the industries located on their lines. The carriers can not, and the Commission does not expect them to do that which is impossible, i. e., carry more tonnage than their equipment will haul. However, the Commission, the mines and the public have the right to insist that the equipment of Indiana roads shall first serve Indiana business, and that interstate roads shall apportion to their lines in Indiana a fair proportion of the equipment of the company, and that all the mines on any line shall be served with impartiality, and that no preference be given to mines located at competitive points, and that the equipment be distributed among all the mines on the line, upon some basis which will insure a fair and equitable service to all. Such a basis would seem to be arrived at by dividing the equipment between the mines on the line served in proportion to the total capacity of all the mines, to be modified by daily output, facilities for loading and handling cars so as to keep the maximum equipment in motion at all times.

In addition to these duties imposed on the carrier, which originates the business, the law gives such carrier certain rights against its connections to compel them to receive and carry to destination any traffic tendered at junction points. The Commission has knowledge that heretofore junction and terminal points have become congested with loaded coal cars which connecting roads refused to handle, resulting in hardships to mine operators and consumers. The late legislation was intended to correct this evil, and it is now the plain duty of all railroads in this State "to receive and transport without unreasonable delay or discrimination, the passengers, tonnage and cars, loaded or empty, of any connecting line," and a failure so to do subjects the carrier to the charge of unjust discrimination. If connecting carriers can not agree upon a joint rate or the division thereof, this Commission has the authority to determine such matters.

A faithful observance of these laws should correct all difficulties of this kind that have heretofore existed and prevent their recurrence, to the injury of the public and the delivering lines, which originates the traffic from mines dependent wholly on one line.

This circular is issued for the purpose of impressing upon the minds of the operating officials of the roads and the mine owners the provisions of the law hereto attached, and with the hope that, if such regulations are not now in force, that such may be adopted as will secure to the public and the mine operators a fair and equitable distribution of the equipment and protect the originating roads in their rights against their connections.



With a view of accomplishing these purposes the Commission invites the carriers addressed to respond to the following inquiries:

1. What coal mines are located on your lines in Indiana?
2. To what connecting roads in this State can and do you deliver coal originating on your lines in this State?
3. Do any of these roads refuse your loaded cars for delivery over their line? If so, for what reason?
4. Upon what rule or basis does your road distribute its equipment to the mines located on the line in this State?
5. If your road extends beyond the State, upon what rule or basis do you apportion the cars for service on the line in this State?
6. Who has charge (name and address) of the distribution of cars to coal mines located on your line in this State? If more than one, give names of divisions and persons and addresses in charge of each.
7. To whom, and under what rules and regulations must the mine operator apply for cars for coal shipment?
8. In the conduct of the coal business, would it be of value to your officer in charge of car distribution, to know from the mine operators, from day to day or week to week, the condition of each mine, showing capacity, output, tonnage ready to move and prospect for next ten days?
9. Do you think a change of the car service rules for, say, five months, allowing only twenty-four hours free time for loading coal cars, would be advisable?

The coal mines receiving this circular are requested to forward to the Commission answers to the following inquiries:

1. On what railroad is the mine located?
2. What number of miners do you employ?
3. What is the maximum output of the mine per day in tons?
4. What is the present output in tons per day?
5. What portion of the time is the mine now operated?
6. What is the present cause of idle time, if any?
7. How many cars can you load in one day?
8. What shortage is there at present in car supply?
9. Does any other mine on this road receive any better or different service than your mine? If so, state the particulars.
10. How often, if at all, do you report conditions at your mine to the railroad company?
11. Do you think a change of car service rules for, say, five months, allowing only twenty-four hours free time for loading coal cars, would be advisable?
12. Can you suggest to the Commission, or to the carriers through the Commission, any plan or system by which the movement of cars to and from your mines would be expedited?

Upon receipt of these answers the Commission will undertake to suggest such reciprocal duties and obligations as may appear to be advisable, to aid the parties in handling the excessive business now in sight.

Respectfully,

UNION B. HUNT,  
C. V. McADAMS,  
WM. J. WOOD

Commissioners.

CHAS. B. RILEY, Secretary.

## EXTRACTS FROM THE RAILWAY COMMISSION LAW.

[Acts 1905, page 83.]

Par. B., Section 3. "The said Commission shall have power and it shall be its duty, as hereinafter provided, upon the failure of the railroad companies so to do, to fix and establish for all or any connecting lines of railroads in this State reasonable joint rates of freight, transfer and switching charges for the various classes of freight and cars that may pass over two or more lines of such railroads."

Par. C, Section 3. "If any two or more connecting railroad companies shall fail to agree upon a fair and just division of the charges arising from the transportation of freights, passengers or cars over their lines, the Commission shall, as hereinafter provided, fix the pro rata part of such charges to be received by each of said connecting lines."

Par. C, Section 11. "When, on the verified complaint of any interested person or corporation, the said Commission shall, on the investigation of such complaint be convinced that the freight rates on any railroad in Indiana, engaged in interstate commerce are excessive or levied or laid in violation of the interstate commerce law or the rules and regulations of the Interstate Commerce Commission, the superintendent, agent or other official of the said railroad companies shall be notified in writing of the facts and requested to reduce or correct them, as the case may be. When the rates are not changed or the proper corrections are not made according to the request of the Commission, the latter is authorized and empowered to notify the Interstate Commerce Commission and to apply to it for relief."

Par. 1, A, B and D, Section 14. "If any railroad subject hereto, directly or indirectly, or by any special rate, rebate, drawback or other device, shall charge, demand, collect or receive from any person, firm or corporation a greater or less compensation for any service rendered or to be rendered by it than it charges, demands, collects or receives from any other person, firm or corporation for doing a like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances and conditions, such railroad shall be deemed guilty of unjust discrimination, which is hereby prohibited."

A. "It shall also be an unjust discrimination for any such railroad company to make or give any undue or unreasonable preference or advantage to any particular person, firm, corporation or locality, in connection with the transportation of any shipment or shipments, or to subject any particular kind of traffic to any undue or unreasonable prejudice, delay or disadvantage in any respect whatsoever."

B. "Every railroad company which shall fail or refuse, under such regulations as may be prescribed by the Commission, to receive and transport without unreasonable delay or discrimination the passengers, tonnage and cars, loaded or empty, of any connecting line of railroad company, and every railroad company which shall under such regulations as may be prescribed by the Commission, fail or refuse to transport and deliver without unreasonable delay or discrimination any passengers, tonnage or cars, loaded or empty, destined to any point on or over the line of any connecting line of railroad, shall be deemed guilty of unjust discrimination: Provided, That perishable freights of all kinds and live stock shall have

precedence of shipment: Provided further, That this shall not be so construed as to require any railroad company to give the use of its terminal facilities to any other railroad company engaged in like business, except that if such terminal facilities are granted to one company, they shall be granted on like terms to all other companies.

D. "Any railroad company violating any provision of this section shall be deemed guilty of unjust discrimination, and shall for each offense pay to the State of Indiana a penalty of not less than \$500.00 nor more than \$5,000.00, to be recovered in a civil action instituted for that purpose in a court of competent jurisdiction."

Sec. 15. "Any officer or agent of any railroad company subject to this act who by means of false billing, false classification, false weight, or by any other device, shall suffer or permit any person to obtain transportation for property at less than the regular rate then in force, on such railroad, or who by means of false billing, false classification, false weighing or by any device whatever, shall charge any person, firm or corporation more for the transportation of property than the regular rates, shall be guilty of a misdemeanor, and, on conviction thereof, fined in a sum not less than \$100.00 nor more than \$1,000.00. (a) Any person, firm or corporation who shall receive any rebate or concession, or who knowingly by means of false weight, false classification, false billing, or by any other device, shall obtain lower than the regular rates then in force, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum of not less than \$100.00 nor more than \$1,000.00."

Sec. 20. "It is hereby made the duty of such Railroad Commission to see that the provisions of this act and all laws of this State concerning railroads are enforced and obeyed, and that violations thereof are promptly prosecuted and penalties due the State therefor recovered and collected. And said Commission shall report all said violations, with the facts in their possession, to the attorney-general or other officer charged with the enforcement of the laws, and request him to institute the proper proceeding; and all suits between the State or the Commission and any railroad or express company shall be placed immediately upon the trial calendar of the courts wherein the same are pending, and shall have precedence over all other civil cases pending in such courts, to the end that there may be speedy trials and adjudications thereof.

A. "It shall be the duty of the Commission to investigate all complaints against the railroad company subject hereto, and to enforce all laws of this State in reference to railroads."

## **Circular No. 6.**

STATE OF INDIANA.

### **RAILROAD COMMISSION OF INDIANA.**

INDIANAPOLIS, IND., December 18, 1905.

To the Railroads and Express Companies of Indiana:

This Commission desires to call the attention of the railroads and express companies, operating in this State, to certain provisions of the act which creates the Commission, and to request that they invite the views of their legal departments thereon:

First—Paragraph "C" of "section 14" makes it unlawful, under certain prescribed conditions, to charge more for a short than for a long haul. The Commission finds from the tariffs on file and from numerous informal complaints made to it, that, in many instances, greater charges are made for short than for long hauls, and with one exception, no application has been made, by the carriers, to the Commission, for the privilege so to do.

Second—Paragraph "D" of "section 11" makes it unlawful for the carrier to contract, limiting its common law liability as such, or affecting the negotiability of its bills of lading. The sample bills of lading furnished to the Commission, by all the carriers which have reported, seem to disregard this provision of the statute.

The Commission does not desire to enforce the penalties which accrue from violations of these statutes, if there have been any such violations, until the carriers have been invited to advise the Commission as to their position in the matter. The Commission has not nor does it now decide that the carriers violate the law in making charges, greater for short than for long hauls, as indicated in their published tariffs. However, the Commission feels sure that these matters have not received the attention which they should at the hands of the carriers and their legal advisers, and we therefore address this communication to them and suggest that it be placed before the proper authorities, for the purpose of definitely determining the position of the carriers upon these subjects. We suggest that the Commission would be pleased if the proper officers of the carriers in this State would agree upon a bill of lading for Indiana shipments, which will comply with the law, and submit the same to the Commission for its approval, to be known as the Indiana Bill of Lading, and the Commission respectfully calls the attention of the carriers to rule 14, promulgated by the Commission, upon the subject of long and short hauls. The Commission respectfully invites a response of this circular by January 1st, 1906, unless that time shall prove to be insufficient for the proper consideration of the questions involved.

Respectfully submitted, by order of the Commission.

CHAS. B. RILEY  
Secretary.

UNION B. HUNT, CHAIRMAN.  
C. V. M'ADAMS.  
W. J. WOOD.

## Circular No. 7.

OFFICE OF THE

### RAILROAD COMMISSION OF INDIANA.

CONCERNING CHANGES IN AND ADDITIONS TO THE LAWS OF INDIANA IN RELATION TO COMMON CARRIERS.

To Superintendents:

Gentlemen—The General Assembly, which recently adjourned, enacted many changes in and made many additions to the laws of this State which affect railroads, electric railroads, express companies and sleeping car companies. These laws became effective today, and the Commission is hav-

ing the same published in pamphlet form. They will be ready for distribution about the 20th inst. The Commission has thought it would be mutually helpful to the carriers and to the Commission to call special attention to certain changes in and additions to the laws. Therefore, we respectfully invite your attention to the following requirements:

*Duties and Requirements, Section 3 Commission's Bill.*

- a. An annual report is required to be filed on or before October 1st, in the form prescribed by I. C. C. This does not apply to electric roads until 1908.
- b. Steam and electric lines required, as between themselves, to afford all reasonable facilities for the interchange of traffic at junction points.
- c. The construction of sidings, switches, spurs and turnout tracks to industries is required, also connections with industrial tracks.
- d. The construction of interchange tracks at all junction points is required, unless the Commission orders to the contrary. This applies to crossings at, over or under grade.
- e. Transportation must be completed without breaking bulk.
- f. Switching must be done for connecting lines on arrival at junction points, and cars made empty must be returned to junction point upon demand.
- g. Railroads shall not cross each other in this State without the approval of the Commission. This does not apply to an electric road crossing a steam line under the act of 1903.

*Tariffs, Section 9, Commission's Bill.*

- a. Requires all intrastate tariffs to be filed with the Commission within 60 days after the act goes into effect.
- b. Any interstate tariffs shall be filed within five days after being called for.
- c. Tariffs to be in form as prescribed by Interstate Commerce Commission.
- d. New tariffs to be filed two days before becoming effective, or the Commission may, upon showing, permit new rates to go into effect at once. No change in rates to be made on less than ten days' notice filed with Commission.
- e. All switching, transfer and terminal charges to be published and filed as tariffs.
- f. All tariffs to be kept on file at all offices where an agent is regularly maintained.
- g. No service shall be performed unless a tariff is filed as required.

*Passes, Section 13 Commission's Bill.*

Free tickets, free passes, or free transportation for passengers, freight or express are forbidden under penalties, except to officers and employees. Does not apply to any pass legally issued for year 1907. This exception was only intended to cover passes issued by the inter-urban lines which were not subject to the old law.

*Accidents, Section 19, Commission's Bill.*

- a. All accidents resulting in the loss of life or serious injury to passengers or employes to be reported to the Commission within five days, with general cause thereof, and within twenty days a full report of the cause shall be filed with the Commission.
- b. Requires railroads to keep tracks, grades, engines, cars, depots and grounds in good condition and to manage and operate the road with reference to the security and accommodation of the public.
- c. Requires that passenger trains be scheduled and operated so as to make reasonable and proper connections at junction points.
- d. Provides for the separation of the grade of two crossing lines when both companies agree thereto.
- e. Provides for proceedings before the Commission to separate the grade of two or more crossing lines when one of the lines desires so to do.

*Bribery by Officers, Employes and Patrons.*

This act makes it a crime for an officer or employe to accept money or property in addition to regular charges for performing a service, or for patrons to give or offer to give money or property to an officer or employe to obtain service.

*Car Movement, etc. Shippers' Bill.*

- a. Requires traffic to go forward an average of 50 miles every 24 hours. Twenty-four hours allowed for movement through terminals and junctions. Penalty \$5.00 per car per day, or 25 per cent. of freight on L. C. L.
- b. C. L. freight to be delivered in 24 hours after arrival, or 24 hours after delivery to connecting line. Penalty \$5.00 per car per day.
- c. Car equipment required and equitable distribution among shippers demanded.
- d. Car service record required and demand for cars to be noted therein. Cars to be furnished in 48 hours after demand. Penalty \$1.00 per car per day for failure to furnish. The Commission will have the form for this record within the next two weeks. It is required to be at each station after 60 days from date the act becomes effective.
- e. If coal is confiscated carrier must give immediate notice to consignor and consignee.
- f. Lines initiating coal shipments must, on request, publish coal tariffs to any point in the State and furnish cars for shipment. When car of coal is given to connecting line it must go forward to destination and empty car be returned to junction point at an average of 50 miles per day. Penalty for failure \$500 to \$1,000.
- g. Carriers can, only after obtaining permission of the Commission so to do, charge less for hauling coal for manufacturing and steaming purposes than they charge for hauling domestic coal.

*Safety Appliances.*

- a. Requires all locomotives and 75 per cent. of all cars in train to be properly equipped with brakes, etc. This does not apply to yard

service or to a local train while switching. The Commission is now of the opinion that the provisions of this act do not apply to work, construction or wreck trains.

- b. Automatic couplers required.
- c. Grab irons and hand holds required.
- d. Standard draw bars required.
- e. Provisions of this act apply to passenger traffic.
- f. Interurban cars used in passenger traffic required to have power air brake.
- g. Overhead obstructions, less than 21 feet from top of rail, are forbidden unless allowed by Commission. Does not apply in cities or incorporated towns.
- h. No structure to be built, or rebuilt, which is less than 18 inches from the widest part of the widest locomotive or the widest car used on the line unless the Commission gives permission so to do. Penalty for violation of paragraphs g and h \$500.

#### *Block System.*

After July 1, 1909, it will be unlawful to operate trains over a line which is not protected by an approved block system. This applies to lines having a gross annual income of \$7,500 or more per mile of line. The Commission has authority to relieve carriers of this duty, as to branch or spur lines where traffic is not heavy, or on main lines where no necessity therefor is shown.

#### *Train Rules and Regulations.*

- a. All companies are required to publish printed rules for the control of trains and to furnish copies thereof to all persons engaged in the operation of trains, and also file a copy with the Commission. Employees engaged in the operation of trains shall be instructed in the rules and examined thereon at least once in each six months for eighteen months after employment and then annually. A penalty of not less than \$25 nor more than \$200 is inflicted for violation of this law.
- b. Any officer, agent or employe of a company engaged in the operation of trains by steam power who is intoxicated while on duty, or who runs trains or gives orders to run trains in violation of the printed rules of the company or in violation of the laws of this State, is subject to a fine of not less than \$25 nor more than \$500.
- c. Copies of this act must be printed and conspicuously posted in train cabooses, depots, offices of train dispatchers, and upon the bulletin boards at division headquarters of all companies, within sixty days after the same becomes effective.

#### *Transportation of Fish.*

It is made unlawful for any railroad or express company or other carrier to transport, take or carry or receive for the purpose of transporting, taking or carrying beyond the limits of this State any pike, pickerel, wall-eyed pike, perch, blue gill, black bass, green bass, rock bass, or other species of bass. It shall be unlawful for any person or persons to deliver or offer to deliver to any railroad

company, express company, or other common carriers, any of said species of fish for the purpose of transporting, taking or carrying the same beyond the limits of this State.

#### *Hours of Service.*

It is made unlawful for any railway official to permit, exact, demand or require any engineer, fireman, conductor, brakeman, switchman, telegraph operator, or other employe engaged in the movement of passenger or freight trains or in switching service in yards of railway stations to remain on duty more than sixteen consecutive hours, except when caused by some casualty occurring after the employe has started on the trip, or to require or permit any employe who has been on duty sixteen consecutive hours to go on duty without having at least eight hours off duty or to require or permit any such employe who has been on duty sixteen hours in the aggregate in any twenty-four hours' period, to continue on duty or to go on duty without having had at least eight hours off duty within the twenty-four hour period. A penalty of not less than \$100 nor more than \$500 shall be inflicted for each violation of this act.

#### *Full Crew.*

This law requires all companies operating more than four freight trains in twenty-four hours to have a full crew on every train, consisting of 50 freight cars, excluding caboose and engine, and the full crew must consist of one conductor, one engineer, one fireman, two brakemen and one flagman. Freight trains of less than 50 cars and passenger trains must have the same crew, excepting that only one brakeman is required. A penalty may be assessed against the company violating this act in a sum of not less than \$100 nor more than \$500.

#### *Baggage Rates.*

- a. This act requires 150 pounds of baggage to be carried with each passenger paying full fare, and 75 pounds with each passenger paying half fare.
- b. The samples, goods, wares, appliances and catalogues of commercial travelers, or their employers, is declared to be baggage and is required to be carried as such.
- c. The charge for carrying baggage, in excess of the weights mentioned, is one cent for each three miles for each one hundred pounds of excess; minimum charge of 25 cents when baggage is less than 500 pounds and 50 cents when it is over 500 pounds, and in determining the rate fractions of less than one-half mile are disregarded; fractions of one-half mile or more are counted as one mile.

#### *Passenger Rates.*

By this act passenger rates are fixed at two cents per mile for the carriage of an adult and one cent per mile for the carriage of persons between five and twelve years of age, the minimum charge in no case to be less than five cents, and in determining the charge fractions of less than one-half mile are disregarded; all other fractions counted



as one mile. If opportunity is furnished to purchase a ticket and a passenger fails so to do he may be charged two and one-half cents per mile, but a check must be given entitling the passenger to receive the overcharge at any station of the company.

*Liquor License.*

Every company operating a dining or buffet car in this State, in which spirituous, vinous, malt or other intoxicating liquors are sold within the State, shall pay annually to the State a license fee in the sum of \$1,000, which shall be paid on or before the 10th day of June of each year.

By order of the Commission.

CHAS. B. RILEY,  
Secretary.

Indianapolis, Ind., April 10, 1907.

**Circular No. 8.**

STATE OF INDIANA.

RAILROAD COMMISSION OF INDIANA.

CONCERNING REPORTS OF ACCIDENTS.

To All Railroads:

Pursuant to directions from your company, we are today sending you herewith certain blank forms for reporting accidents to this Commission, and we are informed that these reports will be made from your office either for all or a certain portion of your line in this State. In this connection and for the purpose of aiding in the organization of the service necessary in reporting, tabulating and preserving the information to be reported, we desire to call your attention to the following regulations, requirements and suggestions:

1. Mail all reports addressed as follows:

Railroad Commission of Indiana,  
Accident Report. Indianapolis, Ind.

2. Such accidents only as occur *within the State of Indiana* are to be reported to this Commission.

3. The law and the order of the Commission require a preliminary report within five days and a complete report within twenty days after the accident occurs. If at the time of making the first report your information is complete the preliminary report need not be made and in lieu thereof the final report blank may be used and the report made thereon within five days after the accident occurs.

4. The blanks are printed in copying ink, and if you will use copying ink in making the report you can then take an impression of the same for your files, and we suggest that you do this, so that reference can be made thereto in any correspondence had with this department concerning the report.

5. Pursuant to its authority to demand information from carriers in this State, the Commission, on May 8, 1907, adopted the following order relative to accidents:

"It is now ordered by the Commission that each carrier in this State, subject to the act approved March 9, 1907, excepting express companies, be and they are each hereby required to make to the Commission, within five (5) days after the same occurs, a preliminary report of any accident, and within twenty (20) days after any such accident the carrier shall make a complete report thereof to the Commission. Such reports shall include:

1. All accidents occurring on the line, at terminals and in the yards, and shall embrace all persons named below:
  - (a) All employees killed or injured;
  - (b) All passengers killed or injured;
  - (c) All expressmen, baggagemen, postal employes, and Pullman employes, killed or injured;
  - (d) All other persons, not passengers, killed or injured;
  - (e) All other persons, trespassers, killed or injured;
2. All derailments, collisions, or other serious accidents in train operation, whether there be loss of life or personal injury, or not.
3. All damages to property caused by the accident, whether there be persons killed or injured or not.

6. Accidents occurring in shops and round houses are not to be reported.

7. All other accidents are to be reported whether the persons killed or injured be employes, passengers or other persons when the accident occurred in connection with train movement at depots or depot grounds, in the yards, at terminals or anywhere along the line.

8. Bear in mind that all collisions and derailments and all other serious accidents in train operation, such as running into open switches or onto defective bridges, or tracks, are to be reported whether there be loss of life or personal injury or not.

9. All steam lines are required to file a copy of their train rules with the Commission. When the accident has been caused on account of failure to observe these rules the report should refer by number to the rule which was violated and state in what particular violated and by what officer or employe.

10. The space for numbering found on the blanks is intended for use in this department and should not be used by you.

By order of the Commission.

CHAS. B. RILEY,  
Secretary.

Indianapolis, Ind., May 17, 1907.

**I. R. C. Cir. No. 9.**

(Modifies I. R. C. Cir. No. 8.)

**RAILROAD COMMISSION OF INDIANA.**

UNION B. HUNT, Chairman.  
 WM. J. WOOD } Commissioners.  
 C. V. MCADAMS }  
 CHAS. B. RILEY, Secretary.  
 L. E. MORTON, Clerk.

**CONCERNING REPORTS OF ACCIDENTS.****To All Railroads:**

Please refer to Circular No. 8, dated April 17, 1907, and be advised that the same is modified and supplemented as follows:

1. Paragraph five, section 3, of such circular is amended to read as follows: (3) All damages to the property of the company having the accident is to be reported whether there is loss of life, personal injury, or not. Damages occurring on account of personal injuries, death losses, damages to property carried, or damages to property of other persons or carriers are not to be reported.

2. Paragraph six of such circular is amended to read as follows: (6) Accidents occurring in shops, round houses, power houses, on boats or at wharves are not to be reported.

3. In case of death from personal injury within four days after the accident the person so dying should be reported as killed.

4. Accidents to employees resulting in slight injuries which do not prevent the employe injured from performing his accustomed services for more than two days in the aggregate during five days next following the accident should not be reported.

5. Only one accident is to be reported in a single report. Such report shall contain the names of all persons killed or injured in that accident only.

6. Each carrier shall report accidents, including property loss, occurring to trains operated over its line by other companies the same as if the accident happened to its own train. In such cases the company operating the train shall not report such accidents.

7. Circular 8 is so modified that no damages to the company's property need to be reported when the same is less than \$150, occasioned by any one accident.

8. Paragraph eight of circular 8 is modified to read as follows: (8) Bear in mind that all collisions, also all derailments of engines or trains, are to be reported whether there be personal injury or loss of life or not; provided, the damages to the company's property amounts to \$150 or more.

9. If the accident was caused through the fault of an employe the report must show his length of service, qualifications and the number of hours at labor at the time of the accident.

10. If the accident was occasioned on account of defective safety appliances, such as air brakes, automatic couplers, standard drawbars and handholds, the report must give the number and initial of the defective car, point of origin and destination of the freight, if loaded.

11. Where accident is occasioned by defective or broken rail, give weight and make of rail and date laid.

12. In reporting damages caused by collision with another carrier, each carrier should report only the damages it sustains, and its passengers and employees killed or injured. If joint employees, each should report and so state. Other persons killed or injured in such collision should be reported by each company.

By order of the Commission.

CHAS. B. RILEY,  
Secretary.

Indianapolis, Ind., May 31, 1907.

### Circular No. 10.

#### RAILROAD COMMISSION OF INDIANA.

UNION B. HUNT, Chairman.  
WM. J. WOOD } Commissioners.  
C. V. MCADAMS }  
CHAS. B. RILEY, Secretary.  
L. E. MORTON, Clerk.

INDIANAPOLIS, June 20, 1907.

#### CONCERNING FULL CREW LAW AND RUNNING CROSSINGS.

##### To All Railroads:

1. You are advised that it is a violation of the law of this State, punishable by a minimum fine of one hundred dollars and by imprisonment in the county jail, for any engineer or motorman to run an engine or car over any steam or interurban railroad crossing in this State without first coming to a full stop and seeing that no other engine or car is approaching and about to cross, unless the crossing is protected by an approved interlocking device, as provided by law. Our inspectors and others report to the Commission that these laws are being constantly disregarded and violated by some of the carriers in this State.

2. You are advised that our inspectors report to us that some of the carriers fail to observe the full crew law recently enacted. Some fail to have the requisite number of trainmen on the trains. Others use car porters and train porters to make up the train crew. The Commission has ruled that a train porter or car porter can not be used as a brakeman or a flagman when he performs the duties devolving on a porter, and that a flagman must have had at least one year's experience in train service.

3. You are advised that if you desire to run crossings you must have them interlocked, as required by law. *Violations of these laws must now entirely cease.* After this circular has been delivered, all violations of either of these laws, or the sixteen-hour law, which are reported to the Commission will be investigated and prosecuted under the direction and at the request of this Commission.

By order of the Commission.

CHAS. B. RILEY,  
Secretary.

**Circular No. 11.**

STATE OF INDIANA.

**RAILROAD COMMISSION OF INDIANA.**

CONCERNING INSPECTION.

**To All Railroads:**

The Act approved March 9, 1907, amending the Act creating a Railroad Commission of Indiana provides that "It shall be the duty of the Commission to keep informed as to the condition of railroads and railways and the manner in which they are operated with reference to the security and accommodation of the public and as to the compliance of the several corporations with their charters and the laws of the State." Such act provides for the appointment of inspectors to aid the Commission in the enforcement of the Act and provides that the Commission may promulgate rules for the control of its inspectors and the carriers with reference to such inspection. The Act approved March 8, 1907, prescribes certain requirements with reference to safety appliances overhead and lateral obstructions and provides for inspection thereof.

In the exercise of the powers and duties conferred by such acts, the Railroad Commission of Indiana now promulgates the following rules and regulations for the control of its inspectors appointed pursuant to such acts, and to regulate the conduct of the carriers subject to such acts with reference to the inspection provided for therein and by this order of the Commission:

The companies shall furnish free transportation and every reasonable facility to inspectors in the discharge of their duties.

Inspectors are required to be courteous, firm, and obliging, and to make report only to the Commission.

**Part One.****GENERAL INSPECTION.**

ALEXANDER SHANE, Chief Inspector.

Such inspection shall extend to and include the following:

1. The track, including side tracks and connections, switches and turnouts, with reference to safety of the public and employes, including rails, ties, ballast, embankment, ditches, frogs, foot guards and guard rails, railroad and highway crossings, interlocking and safety devices and signals.
2. The bridges, trestles, culverts and tunnels, with reference to safety, and overhead and lateral clearance, including as to such clearance of highway bridges.
3. Structures and buildings, with reference to overhead and lateral clearance, including water tanks and columns, mail cranes, semaphore and telegraph poles and wires, and also the situation of buildings as relates to the safety of occupants.
4. Engines and equipment, including the sanitary condition of cars.

5. Depots and platforms, approaches and grounds used in connection with the same, including the size, sufficiency and management of passenger and freight depots, their sanitary condition, and closets, drinking water, light and heating, and whether kept open for patrons as required by law.

6. Officers and men, as to efficiency of the management and service; whether the companies furnish printed rules of operation and instruct the men in these rules, and whether the men obey them; whether any officer or employe is intoxicated while in the performance of his duties, or for any reason incompetent to perform his duties; whether full train crews are provided; whether men are worked continuously exceeding sixteen hours; whether train dispatching, including the operators, is properly conducted; whether agents, and officers and men are courteous and accommodating in their treatment of the public.

7. Any and all specific violations of the laws of this State providing for the safety of passengers or employes, or for the accommodation of the public.

8. Accidents, whenever the Commission shall order its inspectors upon the scene for immediate investigation.

9. Inspectors under these regulations will file written detailed reports with the Commission. If such report in the judgment of the Commission requires any action to be taken by the carrier, the proper official will be called into conference with the Commission and the subject considered and the wishes of the Commission indicated, before formal steps are taken to enforce compliance.

## Part Two.

### EQUIPMENT INSPECTION.

D. E. MATTHEWS, Assistant Inspector.

1. Official inspection under this order will commence July 1, 1907.
2. Such inspection shall extend to and include all the following:
  - (a) All engine and car defects and all automatic air brake requirements specified in the Act approved March 8, 1907, as noted above.
  - (b) All defects in car equipment which are recognized as such by the rules and regulations of the M. C. B. Association.
  - (c) Any other defects in cars or their loading, and any other defects in locomotives which make either of them dangerous to employes or travelers or to the property carried.
  - (d) Any specific violation of the laws of this State and the rules of the carriers regarding the safety of employes and passengers upon the carriers' lines, including notation and reporting of unlawful and unauthorized overhead and lateral clearances.

Inspections under this section shall only be such as incidentally come to the notice of the inspectors while at their other duties.

3. Inspectors are required to make daily written reports in duplicate to the Commission, and upon receipt of the same the Secretary is required to forward one of the reports under his signature to the interested

carrier for its information, and the carrier will be required to give the same attention necessary to result in a correction of the defects, if any are noted in the report.

4. Cars or locomotives found to be so defective as to be dangerous to employes and the public if longer used will be condemned by the inspector, and carded with a red card in black ink, bearing the words "CONDEMNED AND DANGEROUS," and further use of a car or locomotive so carded is forbidden until the defects noted on card have been repaired. The inspector shall at once give written notice of his action under this paragraph to the company having control of the car or locomotive so condemned.

5. Cars or locomotives found to be defective, but which can be moved under caution, shall be condemned by the inspector and carded with a white card in green ink, bearing these words: "CONDEMNED. USE CAUTION;" and such card shall give permission to move the car or locomotive, during daylight only, to the nearest repair point. Further use of a car or locomotive so carded is forbidden until the repairs noted on the card have been made. The inspector shall at once give written notice of his action under this paragraph to the company having control of the car or locomotive so condemned.

6. Before entering any yard, shop or track for the purpose of making an inspection, the inspectors shall, unless otherwise directed by the Commission, call upon the officer or employe in charge and invite him to accompany the inspector during the inspection.

7. All carriers subject to such laws, their officers and employes, are required, upon request therefor by any inspector exhibiting his certificate of authority under the hand of the Secretary and the seal of the Commission, to furnish to him any information requested touching his duties as such and permit free access to all books, papers, bills of lading, waybills and shipping directions which may in any way affect any of the equipment which he shall inspect by virtue of such laws and these rules and regulations.

8. The Commission now adopts forms for such reports, for such cards, and for such notices, and the inspectors and such carriers are required to conform thereto.

9. Such inspectors will, from time to time, while en route discharging their other duties, inspect interlocking devices and report thereon in writing to the Commission. In case any such report reveals defects in the construction of the machine, or failure to keep the same in repair, or want of care in operation, the Commission will present the same to the signal engineer of the company operating the device and require corrections to be made, and, if necessary for safety, order the machine out of service and notify the connecting lines.

By order of the Commission.

CHAS. B. RILEY,  
Secretary.

Indianapolis, Ind., June 26, 1907.

**Circular No. 12.****RAILROAD COMMISSION OF INDIANA.**

UNION B. HUNT, Chairman.  
 WM. J. WOOD }  
 C. V. McADAMS } Commissioners.  
 CHAS. B. RILEY, Secretary.  
 L. E. MORTON, Clerk.

INDIANAPOLIS, June 26, 1907.

**CONCERNING SPOUTS ON SERVICE TANKS.**

To All Steam Railroads:

Reliable information has reached the Commission that a great many spouts on service water tanks are so hung that they reach over the top of cars so as to greatly menace the safety of employes. The Commission recommends and orders that such spouts shall be hung so that in their normal position they will stand erect, and shall otherwise conform to the law with reference to overhead and lateral structures.

The Commission requests and expects prompt compliance in this matter.

By order of the Commission.

CHAS. B. RILEY,  
 Secretary.

**Circular No. 13.****RAILROAD COMMISSION OF INDIANA.**

UNION B. HUNT, Chairman.  
 WM. J. WOOD }  
 C. V. McADAMS } Commissioners.  
 CHAS. B. RILEY, Secretary.

DEPARTMENT OF TARIFFS  
 L. E. MORTON, Clerk.

INDIANAPOLIS, July 1, 1907.

**CONCERNING ACCOUNTING.**

To All Interurban Railroads:

The act approved March 9, 1907, amended section 3, paragraph (1), provides that each carrier subject to the act shall make an annual report to this Commission of all its financial and business operations in the State for the year ending on the preceding 30th day of June. Interurban railroads are not required to file this report until the close of the year ending June 30, 1908. The year then ending commences today. This act provides that the report shall embrace such information as shall be prescribed by the Interstate Commerce Commission for reports of interstate carriers thereto, and that such reports shall be in the form so prescribed in so far as the same is applicable. Since the approval of the Hepburn act the Interstate Commerce Commission has prescribed a new system of accounting, which becomes effective today, and in connection with the order prescribing the new system of accounting that Commission



has issued numerous pamphlets in explanation of the same, and this circular is directed to interurban railroads for the purpose of calling their attention to that fact, and the suggestion is made that all interurban railroads in this State at once procure copies of these publications and that they commence at once to keep their accounts in accordance therewith so as to comply with the law. This is a matter of great importance and will be insisted upon by this Commission when the time comes for interurban railroads to make their first report under the law.

The publications referred to, so far as they have come to our knowledge, are designated as follows:

- "Classification of Operating Revenues,"
- "Classification of Operating Expenses,"
- "Classification of Expenditures for Road and Equipment," and
- "Classification of Locomotive-Miles, Car-Miles, and Train-Miles."

By order of the Commission.

CHAS. B. RILEY,  
Secretary.

#### Circular No. 14.

#### RAILROAD COMMISSION OF INDIANA.

UNION B. HUNT, Chairman.  
WM. J. WOOD } Commissioners.  
C. V. MCADAMS }  
CHAS. B. RILEY, Secretary.  
L. E. MORTON, Clerk.

INDIANAPOLIS, July 23, 1907.

#### CONCERNING THE LIGHTING OF DEPOTS, PLATFORMS AND APPROACHES.

#### To All Railroads:

Reliable information has reached the Commission that a great many railroad stations at small towns and villages in this State are not lighted, or are not sufficiently lighted. The law of the State requires that for the accommodation of the public, the passenger stations, the platforms and the approaches thereto shall be well lighted. The omission to do this is so general that the Railroad Commission desires to call it to the attention of all the companies to the end that the stations and the platforms and the approaches of all depots within the State may be properly lighted. Recent accidents which have occurred on account of defects of this character emphasize the importance of this circular.

The prompt and effective compliance of the companies is requested, and they are notified that our inspectors will hereafter report to the Commission all omissions of this kind.

By order of the Commission.

CHAS. B. RILEY,  
Secretary.

**Circular No. 15.**

(Cancels No. 13.)

STATE OF INDIANA.

## RAILROAD COMMISSION OF INDIANA.

CONCERNING ACCOUNTING.

To All Interurban Railroads:

Please refer to Circular No. 13 on the subject of accounting. Same is hereby canceled.

1. The law required your annual reports to conform to the regulations adopted by the Interstate Commerce Commission.

2. That Commission has no such regulation at this time, although orders for its preparation have been issued. It will not be available for the current year.

3. The system of accounting, promulgated by the Street Railway Accountants' Association of America, is now approved for use by all interurban railways in this State from July 1, 1907, until a system of accounting is adopted by the Interstate Commerce Commission.

By order of the Commission.

CHAS. B. RILEY,

Secretary.

Indianapolis, Ind., August 8, 1907.

**Circular No. 16.**

STATE OF INDIANA.

## RAILROAD COMMISSION OF INDIANA.

CONCERNING THE EQUIPMENT OF RAILROADS WITH AN APPROVED BLOCK SYSTEM.

To All Steam Railroads:

The General Assembly has provided (chapter 205, Acts 1907, page 353) that your railroad, where its gross annual income from operation is \$7,500, or more per mile, shall be equipped with an approved block system by the 1st day of July, 1909. This act resulted from an investigation made by the Railroad Commission, by direction of the assembly, of railroad accidents which had taken place, and of present conditions of railway service and operation in the State. Its purpose was to remedy existing conditions and dangers, and not to postpone the institution of the block system to the time limit made in the statute.

You are advised and directed to commence as early as possible to comply with this act of the assembly in its spirit and purpose. Our Chief Inspector will confer with you at any time at your request as to the kind of system best adapted to your line, having regard first to safety and then to the amount of business and your ability to put in this system.

Your attention to this circular will be evidenced by prompt response from your general officers to the Commission showing what you have done, and intend to do, to carry out the will of the General Assembly, so expressed in this act.

By order of the Commission.

CHAS. B. RILEY,

Secretary.

Indianapolis, Ind., August 12, 1907.

**Circular No. 17.**

STATE OF INDIANA.

## RAILROAD COMMISSION OF INDIANA.

## CONCERNING LATERAL STRUCTURES.

To All Steam Railroads:

From information received by the Commission from its Chief Inspector, it appears that business men who have need for structures along railroad tracks are not generally advised of the provisions of the statute enacted by the last General Assembly, which makes it unlawful to build any structure along the line of any railroad in this State in which that part of such structure nearest the track shall be less than 18 inches from the nearest point of contact with the cab of the widest locomotive that is now, or may hereafter be used, or less than 18 inches from the nearest point of contact with the widest part of any car that is now, or may hereafter be used on any railroad in this State. The penalty for the violation of this act is \$500. You are requested to officially call the attention of your local officials, agents and section foremen to this law, and to direct them to call its provisions to the attention of all persons having structures along the line of your railway, or who are about to erect structures of any kind thereon.

Our Inspector calls our attention to the further fact that a large number of coal bins are too close to the track. That many of these bins are frail; that they bulge out in numerous instances almost to the track, thus greatly endangering life and property. When empty these structures could be moved at a nominal cost, and while they do not come strictly within the provisions of the law they should be moved whenever practicable, and we ask your earnest co-operation to bring about this result to the end that the danger arising from these structures may be reduced to the minimum, if not entirely removed.

The Commission will be glad to have you call its attention to matters of this kind at any time. Kindly advise us at once what action you have taken or will take concerning the matters suggested in this circular.

By order of the Commission.

CHAS. B. RILEY, Secretary.

Indianapolis, Ind., August 13, 1907.

**Circular No. 18.**

(Corrected.)

**RAILROAD COMMISSION OF INDIANA.**

UNION B. HUNT, Chairman.  
 WM. J. WOOD } Commissioners.  
 C. V. MCADAMS }  
 CHAS. B. RILEY, Secretary.

DEPARTMENT OF TARIFFS  
 L. E. MORTON, Clerk.

INDIANAPOLIS, November 23, 1907.

**CONCERNING SIGNALS AT, AND CONDITION OF, HIGHWAY CROSSINGS.****To all Railroad Companies:**

During the months of July, August and September, 1907, railroad trains killed twenty-eight (28) persons on the highway crossings. We call the special attention of the carriers to two matters, which, if properly attended to, will lessen the fatalities at such crossings:

1st. Our inspectors report that many of the crossings are not in good repair. We recommend to the companies special instructions to roadmasters and supervisors to put these crossings in first-class shape.

2d. Reliable information reaches us that some of the engineers and motormen fail to give the proper signals at these crossings. Some enginemen whistle loud and clear, and others give such short and imperfect blasts that they can not be well heard, and therefore do not give adequate warning. We request managers and superintendents to issue special instructions as to the manner of giving these signals, and in order that enginemen and motormen may be fully informed, and not subject themselves to the severe penalties of the law, we think their attention should be called to the statute bearing on this subject:

(Acts 1905, Sec. 673, page 749.)

***Signals for Crossings.***

"Whoever, having charge of a locomotive engine, or interurban electric car, fails or neglects when such engine or car is approaching any road-crossing to sound the whistle, or, if not equipped with whistle, the gong, at a distance of not more than one hundred nor less than eighty rods from such crossing, shall, on conviction, be fined not less than ten dollars nor more than fifty dollars; and if any person is injured or killed by reason of such failure or neglect, the person so causing such injuries shall, on conviction, be imprisoned in the state prison not less than two years nor more than fourteen years, but nothing contained in this section or the preceding seven sections shall be so construed as to interfere with any ordinance or by-laws that has been or may be passed by any city or town regulating the management or running of engines or trains within such city or town."

By order of the Commission.

CHAS. B. RILEY, Secretary.

This form was issued on April 22, 1907:

CAR RECORD OF THE ..... RAIL.... CO., AT ITS .....  
INDIANA, STATION.

This record is required by law to be kept in this office. Demand for cars for shipment to points in this State can only be made on this record, or by letter or telegram, filed with the agent. The law requires cars to be furnished within 48 hours after 6 o'clock p. m. of the day they are ordered. If cars are not required at end of 48 hours, they must be furnished when required.

If cars are ordered by telephone, the local agent may record it here, but consignor must sign record, or confirm order in writing or by wire, before cars are wanted. Cars ordered in writing or by wire should be entered here by local agent and reference made to file for copy.

It is a crime, punishable by a fine of not less than \$25.00, or more than \$50.00, for any person to make a false entry in this record, or to alter, change or mutilate any entry made therein, or for any party to record herein a demand for cars not required or for more cars than are required, or to duplicate an order for cars previously demanded and not furnished. All entries should be in ink.

RAILROAD COMMISSION OF INDIANA.

April 22, 1907.

ENTRIES BY SHIPPER.

Ordered.	Cars Wanted.				Date Wanted.	To Load With.	To Load For.	Route.	Name or Signature of Shipper.
Year.									
Date.	Time.	No.	Kinds.	Size.					

ENTRIES BY LOCAL AGENT.

Date Set.		Cars Set.		Date Billed.		Remarks.
Month.	Day.	Initials.	No.	Month.	Day.	

This is the form for the car record required by Section 6 of the Shippers' Bill, as prepared by the Railroad Commission of Indiana. The roads may make the record of such size as they desire, having enough space to make proper entries in each column. The columns may be transposed and the nomenclature for column headings changed to suit the records of each company, preserving, however, the entire requirements indicated in the form, excepting columns from "shipper's entry" can not be transposed to "agent's entry," or vice versa.

Indianapolis, Ind., April 22, 1907.

CHAS. B. RILEY,  
Secretary.

**APPENDIX IX.**

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**Financial Statement.**





# Financial Statement.

## FINANCIAL STATEMENT COVERING PERIOD OF ELEVEN MONTHS ENDING SEPTEMBER 30, 1907.

(End of Fiscal Year.)

Received from State Treasurer, on warrants of Auditor.....\$21,366 32

### Disbursed on orders of the Commission—

For office, furniture and fixtures.....	\$261 88	
For express, transfer and messenger service....	22 59	
For postage .....	440 92	
For telephone rental and long distance service..	227 90	
For telegraph service .....	122 90	
For railroad maps .....	700 00	
For office supplies and publications .....	76 95	
For extra office and other help, stenographic, typewriting, etc.....	2,002 41	
For fees paid sheriffs and other officers, and for legal publications .....	17 67	
For fees paid engineer, inspecting interlocking plants, etc.....	635 54	
For traveling expenses, commission, secretary, clerk and inspectors .....	579 97	
		\$5,087 73
For salaries paid three commissioners, eleven months, at \$4,000 per year each .....	\$11,000 00	
For salary paid secretary, eleven months, at \$2,500 per year .....	2,291 64	
For salary paid clerk five months at \$1,500 per year and six months at \$1,800 per year...	1,525 00	
For salary paid one inspector, four months, at \$1,800 per year .....	600 00	
For salaries paid one inspector, four months, at \$1,500 per year .....	500 00	
For salaries paid one inspector, two months, at \$1,500 per year .....	250 00	
		\$16,166 64
Attorney fees paid from special appropriation*.....		111 95

Total expenditures for all purposes ..... \$21,366 32

\*Amount special appropriation, \$3,000 per annum.

[34—17641]

## Collections during eleven months ending September

30, 1907, and paid into the state treasury—

Fees in interlocking cases .....	\$538 06	
Fees for transcript, copies, etc.....	1,368 65	
Fees for publication of notices .....	5 40	
		<u>\$1,910 11</u>

Net expenditures in excess of collections .....	\$19,456 21
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CHAS. B. RILEY,  
Secretary.

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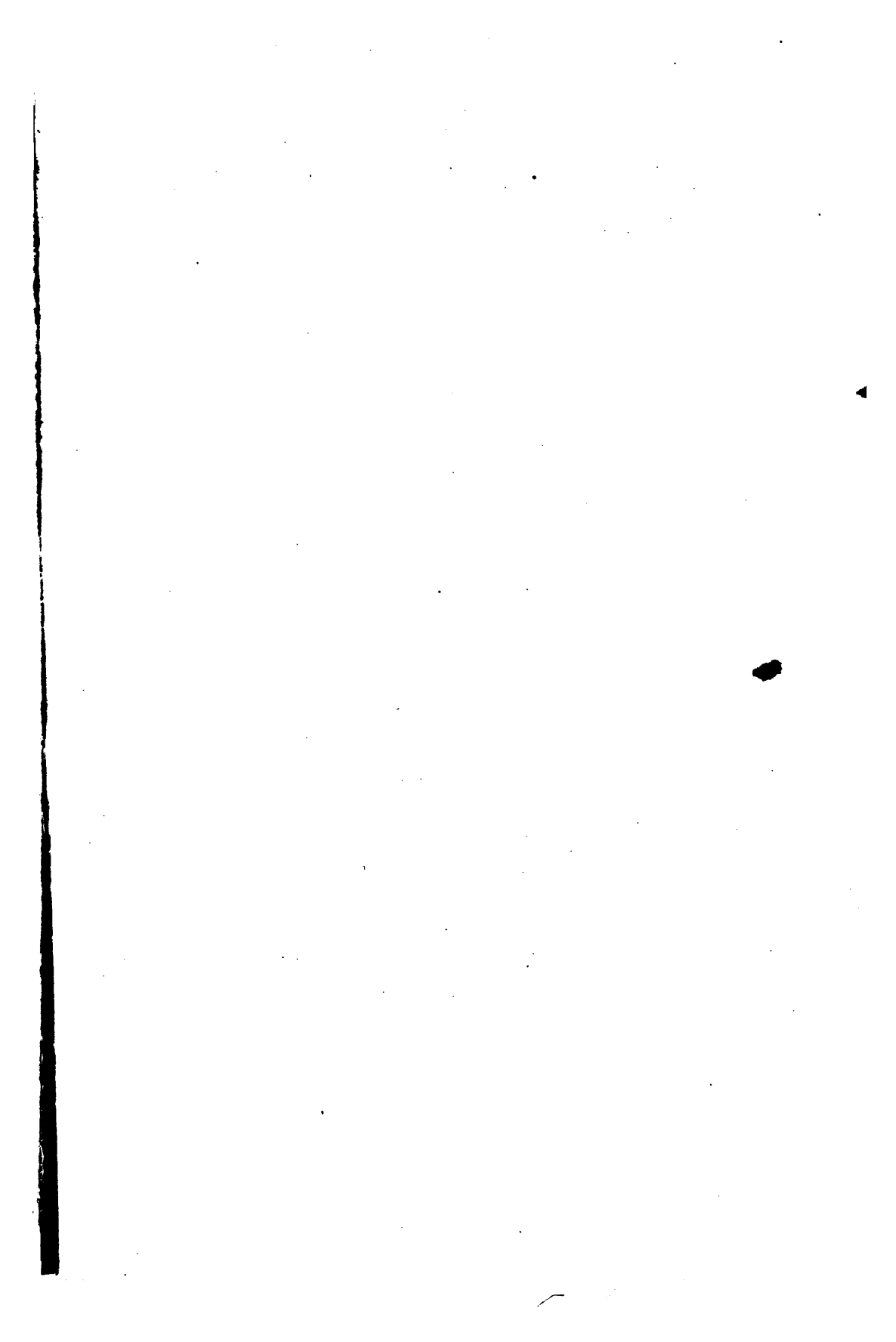


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